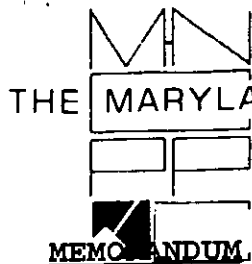


Cover Sheet for:

Preliminary Plan 1-95042

Staff Report



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring Maryland 20910-3760

Date: September 22, 1995

TO: Montgomery County Planning Board

FROM: Joseph R. Davis
Planning Department
(301) 495-4591

SUBJECT: Preliminary Plan No. 1-95042, Clarksburg Town Center Project

STAFF RECOMMENDATION:

Staff recommends that the preliminary plan application be approved including 1) waiver of the distance between intersections requirements as contained in Section 50-26 of the Subdivision Regulations and 2) approval of closed section streets subject to MCDOT approval. Staffs recommendation of approval of the Preliminary Plan is subject to the following conditions:

- (1) Agreement with Planning Board to limit development to a maximum of 1300 dwelling units, 150,000 square feet of retail uses and 100,000 square feet of commercial office uses, subject to the following requirements:
 - (a) Agreement with the Planning Board to provide the necessary roadway improvements as identified in the Transportation Planning Division memorandum dated 9-22-95.
 - (b) The recordation of the subdivision plats for the Clarksburg Town Center project shall be phased over a nine year period. Plats may be recorded in three separate phases with each phase being completed within a thirty-six month period. Applicant to record plats for at least 200 residential units during Phase 1. Applicant must submit a plat recordation schedule for Phases 2 and 3 for Planning Board approval as part of the Phase 1 site plan review.
- (2) Compliance with Environmental Planning Division approval regarding the requirements of the forest conservation legislation. Applicant must meet all conditions prior to recording of plat or MCDEP issuance of sediment and erosion control permit, as appropriate
- (3) The commercial area's stormwater management forebay, sand filter #6 and associated grading that cannot be forested must be located outside of the required stream buffer.

- The SWM facilities should be designed to promote aesthetics and effectiveness.
- (4) Dedication of the following roads as shown on plan must be provided as follows:
- (a) Clarksburg Road (MD RT 121) for ultimate 80' right of way
 - (b) Piedmont Road (Master Plan A-305) for ultimate 80' right of way
 - (c) Stringtown Road (Master Plan A-260) for ultimate 120' right of way
- The final location of the road alignments will be determined at site plan
- (5) Dedication for the proposed park/school site is to be made to M-NCPPC as shown on the applicant's revised preliminary plan drawing. Dedication must be made as part of the Phase 1 record plats. Area tabulations for the resulting park/school complexes to be submitted by the applicant for staff review prior to site plan submission. Final grading plan for the Park/School site to be submitted for technical staff approval as part of the site plan application
- (6) Related to #5 above, applicant to enter into an agreement with the Planning Board to provide for site grading, construction and seeding of the replacement athletic fields in accordance with Park's Department specifications, as shown on the preliminary plan drawing, and as specified in the Department of Park's memorandum dated September 22, 1995. The construction of the replacement athletic fields must occur when applicant initiates construction of proposed public street "F".
- (7) Record plats to reflect delineation of conservation easements over the areas of 100 year flood plain, stream valley buffer, wetland buffer and tree preservation and/or reforestation and greenway dedications
- (8) No clearing, grading or recording of plats prior to site plan approval
- (9) Final number and location of units to be determined at site plan
- (10) Access and improvements as required to be approved by MCDOT and MDSHA
- (11) Conditions of MCDEP stormwater management approval dated 7-28-95
- (12) Final number of MPDU's to be determined at site plan dependent on condition # 9 above
- (13) Preliminary Plan 1-95042 is expressly tied to and interdependent upon the continued validity of Project Plan 9-94004. Each term, condition, and requirement set forth in the Preliminary Plan and Project Plan are determined by the Planning Board to be essential components of the approved plans and are therefore non-severable. Should any term, condition, or requirement associated with the approved plans be invalidated, then

the entirety of the approved plan shall immediately expire without the need for further action by the Planning Board

(14) Other necessary easements

ISSUES TO BE RESOLVED:

The following issues need to be resolved by the Planning Board as part of the Board's consideration of this application. Staff has provided background, discussion and recommendations concerning these issues in this report:

- Does the subject application satisfy the Clarksburg Master Plan staging recommendations for Stage 2 development?
- Applicant does not agree with the phasing of roadway improvements as recommended by staff in the transportation planning memorandum dated 9-22-95.
- The area required for the proposed park/school dedication needs to be established as part of the preliminary plan process.
- An implementation strategy for the park/school dedication, the grading and construction of the new athletic fields and the transfer of land to the Montgomery County Public Schools (MCPS) for the proposed elementary school must to be determined.

BACKGROUND

The subject application was filed at the same time as the project plan application on November 23, 1994. The applications were not presented to the Development Review Committee until January 17, 1995, and again on January 30, 1995. This delay resulted from procedural discussions relating to the timeliness of the submissions, the need to address staging triggers and the need to secure necessary sewer and water category changes.

The project plan was approved by the Planning Board, after lengthy review and discussion, on May 11, 1995. The application was discussed at two previous Planning Board meetings held on April 6 and 20, 1995. The preliminary plan application was also on the agenda at those meetings for discussion purposes. Attachment #1 to this memorandum is the Planning Boards Opinion approving the project plan application, dated June 12, 1995.

During the Board's consideration of the project plan, there

was significant discussion concerning the staging trigger requirements of the Master Plan and whether or not the project plan application satisfied the staging trigger requirements. Table 19 of the Interim Reference Edition of the Clarksburg Master Plan contains the Stage 2 trigger requirements and is Attachment #2 to this memorandum. The Planning Board recognized that not all of the staging triggers have been met for this project, but the Board concluded that it was important to allow the project to proceed to the preliminary plan phase where the triggers could be addressed. The Planning Board did not want the project to be unnecessarily delayed if the staging triggers could be addressed at the preliminary plan phase.

The staging triggers that had not been satisfied at the time of project plan approval are identified as follows:

- MCDEP had not completed the Executive Regulations (SPA Regulations) and M-NCPPC staff had not released the SPA guidelines associated with the adopted Water Quality Review Process. These regulations and guidelines are still in draft form and will not be finalized for several months.
- WSSC and the County Executive had not completed their analysis indicating that there is sufficient sewer treatment conveyance capacity (existing or programmed) to accommodate Stage 2 development, and that sewer authorizations for the Germantown Town Center would not be at risk.
- The implementing mechanism requiring one or more development districts or alternative financing mechanisms that can provide public facilities in accordance with the APFO and additional local determinations by the County Council.

To date, the SPA Regulations have not yet been enacted. These regulations include both MCDEP regulations and associated M-NCPPC guidelines which are now in draft form. The Planning Board is scheduled to review the proposed SPA regulations and guidelines in September. However, staff believes that the application adequately addresses the proposed SPA regulations and guidelines and recommends that the application be approved with the buffers shown, except for one SWM facility that needs to be shifted out of the buffer adjacent to the commercial area. With regard to the sewer capacity trigger, Attachment #3 is a letter from MCDEP stating that there is sufficient capacity to allow the Stage 2 development for Clarksburg to proceed forward for plan approvals.

As part of the project plan discussion, the Planning Board expressed strong concern that there is a need for alternative infrastructure financing mechanisms to assure that the full Master

Plan road network is provided in a timely fashion and is financed in as equitable a manner as possible. Staff has analyzed this issue and has recommended an infrastructure financing strategy for Planning Board consideration. This strategy was presented to the Planning Board on August 3, 1995. There was significant discussion of the issues at that meeting, and the Board members concluded that additional work was necessary to determine the Clarksburg Town Center's "fair share" of master planned infrastructure.

With regard to the park/school site issue, the Board endorsed the idea of a combined park/school to serve the town center area in the vicinity of the existing Kings local park. The Board recommended that staff and applicant work out the location of the park/school as part of the preliminary plan review. The board members also noted that if this shared arrangement could not be worked out, then the applicant would have to find another elementary school site on the property.

ANALYSIS OF ISSUES:

Since the Planning Board's approval of the project plan application in May, and the Board's August 3, 1995 discussion of proposals for alternative financing mechanisms to implement the transportation network for the Clarksburg Master Plan area, staff has had several meetings with the applicant to address the issues previously identified. Staff's recommendations concerning the issues are based on the following analyses:

1-Transportation Analysis:

Planning Department staff has evaluated the transportation effects of the subject application from two perspectives. The first is the standard APFO analysis that was done in accordance with the requirements of Section 50-35(k) of the Subdivision Regulations. This is the standard APFO analysis. Since the FY 96 AGP does not include Clarksburg as a policy area, there is no staging ceiling to be addressed. Staff has evaluated the impact of the proposed development on nearby roads and intersections in accordance with the Local Area Transportation Review Guidelines. The local area transportation review improvements necessary for this project are the same as those previously identified in project plan condition #2 found on Page 2 of the Project Plan Condition (see Attachment #1).

The second transportation review was based on the Master Plan recommendation that development districts or alternative financing mechanisms be utilized to assure that the road infrastructure necessary to implement the end-state Master Plan development is provided. As part of the project plan discussion, the Board requested staff to conduct an analysis of the Master Plan road network and focus attention on the amount of road infrastructure

required, how the roads would be built, and when they should be built. The Planning Board expressed the need to find a comprehensive approach for developers in Clarksburg to provide appropriate portions of road infrastructure in a fair and equitable manner.

Staff previously identified Stringtown Road (A-260) as representing an appropriate roadway that if improved to County standards, as a two lane road within the Master Plan alignment, could serve as the Town Center's pro-rata share of the master planned roadway infrastructure. Staff's assessment was based on the 1993 Fiscal Impact Analysis prepared by the Montgomery County Office of Planning Implementation (OPI), as part of the Clarksburg Master Plan review. The OPI study projected a funding gap of approximately \$89 million for required infrastructure. The Study also projected approximately \$37 million in revenues to be generated by the Construction Excise Tax (CET). Since the CET has been repealed, this revenue must be added to the capital gap. This means that the OPI Study's estimated funding gap could now be estimated at approximately \$126 million.

The County Council understood the significance of the capital gap when the Clarksburg Master Plan was approved. This was the basis for the strong Master Plan emphasis on the need for alternative infrastructure financing mechanisms to support new development in Clarksburg. The OPI Study also estimated the cost of all road infrastructure for Clarksburg to be approximately \$125 million. If the applicant's share of this infrastructure is on the order of 10 percent, then it could be argued that the applicant's share of infrastructure cost would be on the order of \$12.5 million, with no County or State input.

Item # 19 on the Planning Board's 8-3-95 Agenda was the review of the Planning Departments analysis and recommendations concerning the need for a more equitable distribution of road infrastructure improvements among the development projects in Clarksburg. Staff recommended that the Board require new development to participate in road infrastructure improvements. Staff suggested that staff's Scenario # III (c) be applicable to projects in this area. This scenario would require developers to pay 50 percent of the construction costs of State and County roads that are situated between properties, and to pay 50 percent of the construction costs for the second two lanes of arterial or major roads that are situated within properties. The different scenarios studied by staff assumed that developers would construct all internal two lane streets located within their properties.

OPI, in cooperation with MCDOT, has provided staff with an estimate of the cost for constructing Stringtown Road to County standards. A two-lane Stringtown Road would cost approximately \$4.7 million (This is one-half of the estimated cost of \$9.4 million for a four lane arterial road that was costed out by OPI). Under

staff's recommended scenario, with fifty percent participation by the State and County, the estimated \$126 million road infrastructure costs to developers would be reduced to approximately \$63 million. This would translate into about \$6.3 million for the Clarksburg Town Centers share of road infrastructure. Please note that the OPI fiscal analysis has raised a number of questions that will have to be carefully reviewed as part of the impact tax analysis.

The costs of Stringtown Road appear to approximate The town center's share for master plan road infrastructure. Staff believes that with the applicant's agreement to provide these roads, it can be reasonably argued that the application satisfies the Master Plan implementing mechanism for Stage 2 development projects. A more detailed analysis of the "fair share" issue for total infrastructure improvements for Clarksburg will be considered by the County government as part of a proposed impact tax for Clarksburg. If it is determined that the Clarksburg Town Center's share of infrastructure costs needs to be increased, then an impact tax could be assessed at building permit.

When attention is focused on total infrastructure to serve master planned development, the town center's provision of land for the future school, greenway dedication and the land for a future community center and library must be included the impact tax deliberations. The impact tax discussions before the County Council will involve a more comprehensive fiscal analysis than could be provided for the subject preliminary plan application. Staff concludes that the applicant's agreement to upgrade and to reconstruct portions of Stringtown Road is recognition that they must share in the costs of the master plan infrastructure.

With regard to proposed road A-305, staff recommends that the applicant construct this two-lane arterial through the limits of the subject property. This is in accordance with the general requirement that developers construct roads that extend through their sites. The applicant has agreed to construct A-305, as recommended by staff.

With regard to the phasing of road improvements, staff recommends that the applicant phase necessary improvements as follows. This phasing differs from the phasing included in the project plan opinion because the addition of Stringtown Road must be incorporated into the road program.

- 1- No improvements for the first 44 dwelling units
- 2- After the 44th dwelling unit, developer must start construction of intersection improvements along MD 355 at MD 121 and Stringtown Road (A-260).
3. After the 300th dwelling unit, the developer has two

options:

- a) Construct A-260 from MD 355 to the proposed commercial street connecting A-260 with P-5 and construction of P-5 across stream to connect with the proposed residential area north of the stream; or,
 - b) Construct A 260 from MD 355 to the residential road located north of the stream.
- 4. After the 600th unit, construct the remaining section of A-260 north to A-305.
 - 5. Construct A-305 from A-260 to MD 121 when any of the residential units located between A-305 and the first parallel residential street south of A-305 are built.

3-Park/School Dedication Analysis:

Staff of the Planning Department, Parks Department and Montgomery County Public Schools (MCPS) have had several meetings (including several with the applicant) in an attempt to resolve the park/ school issue. Attachment #5 is a memorandum from the Parks Department outlining their specifications for relocation of the two athletic fields, the timing and conditions associated with both the future dedication of parkland and the land swap needed to construct a future subdivision street.

There is a problem involving the transfer of land to MCPS for the proposed elementary school site. Staff recommends that the applicant dedicate approximately 8 acres of land situated north of the existing Kings Local Park to M-NCPPC. This area will accommodate the two existing athletic fields that will be displaced by the new school. At such time as MCPS is ready to construct the new school, M-NCPPC would transfer ownership of approximately 6 acres to MCPS for the school facility. This would include the building footprint, school parking lot, bus drop-off/turnaround, asphalt play areas, and SWM area. This area is shown on the revised preliminary plan drawing. M-NCPPC would retain ownership of the school fields and would enter into an easement agreement with MCPS for exclusive school use of the fields during the school year, as well as to provide for M-NCPPC maintenance of the school fields along with the park fields.

The MCPS staff recently informed staff that they would prefer that a 10 to 12 acre area be dedicated directly to MCPS and that they would own and control the school site portion of the park/school. If a decision is made in the future not to locate a school at this location, then MCPS would dispose of the site through the normal school disposition process. Staff does not support the MCPS staff position because it is not sensitive to the park/school concept agreed to as part of the project plan and shown

on the preliminary plan.

In accordance with the Subdivision Regulations, there is a need for the Planning Board to secure a site for the future elementary school based on the Master Plan recommendation for a school site within the town center area. Under normal circumstances, a 10 to 12 acre area would be required from this site for dedication to MCPS. The situation in the Clarksburg Town Center is not normal because a planned park/school is viewed as providing a more efficient use of land in the town center than separate park and school locations.

Staff's proposed park/school arrangement recognizes the need to closely coordinate the relocation of existing park fields and to coordinate the location of the school facilities within the park. In addition, if a school is not going to be constructed at this site in the future, then the site should be retained as park and not left to a disposition process that could allow uses not compatible with the existing park uses.

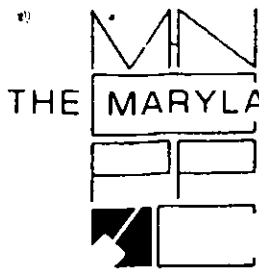
4-Waiver Of Distance Between Intersections Requirement:

Section 50-26(e)(2) of the Subdivision Regulations requires that proposed intersections with arterial or major highways (ie: Clarksburg Road) shall be spaced no closer than six hundred feet. As part of the Planning Board's action on the project plan, the Board directed the applicant to provide a stronger grid system for the town center and greater opportunity for interconnections between the east and west sides of Clarksburg Road. This results in the need for the Planning Board to grant a variation from the 600 foot spacing requirement between intersections on Clarksburg Road. Section 50-38 authorizes the Planning Board to grant such a variation. Staff recommends that the waiver/variation be granted.

LIST OF ATTACHMENTS

- 1- Opinion for Project Plan No. 9-94004
- 2- Table 19 from Clarksburg Master Plan, Interim Reference Edition
- 3- Letter from MCDEP addressing adequacy of sewer capacity required for staging trigger approval
- 4- Memo From Council staff concerning impact tax proposals
- 5- Planning Department memo addressing Transportation improvements
- 6- Planning Department memo addressing environmental issues
- 7- Parks Department memo addressing school/park issue

- 8- Letter from adjacent properties expressing concern that Clarksburg Town Center must satisfy Master Plan requirements for pro-rata participation in infrastructure improvements.
- 9- Reduced copy of the applicant's proposed preliminary plan
- 10- Tax map/vicinity map of Clarksburg Town Center area.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

**MONTGOMERY COUNTY PLANNING BOARD
REVISED OPINION**

Project Plan No. 9-94004

CLARKSBURG TOWN CENTER

RMX-2 Zone

1300 Residential Units, 150,000 Square Feet of Retail, and 100,000 Square Feet of Office
SE Quadrant Frederick Road/Stringtown Road

Clarksburg

Date Mailed: June 12, 1995

Action: On May 11, 1995, motion was made by Commissioner Aron, seconded by Commissioner Holmes, with a vote of 3-1, Commissioners Aron, Holmes, and Hussmann voting for the motion, Commissioner Baptiste opposed to the motion, and Commissioner Richardson absent.

On December 6, 1994, the Clarksburg Town Center Venture (Piedmont Land Associates L.P. and Clarksburg Land Associates L.P.) submitted a complete project plan application seeking to develop pursuant to the optional method of development in the RMX-2 Zone. The application includes a range of housing opportunities, retail shops, a grocery store, restaurants, personal services, and offices.

On April 6, April 20, and May 11, 1995, Project Plan #9-94004 was brought before the Montgomery County Planning Board for a public hearing pursuant to Chapter 59 of the Montgomery County Code. At the public hearings, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the oral testimony, written evidence submitted for the record, and the staff report, the following conditions and findings are hereby adopted.

In voting against the motion, Commissioner Baptiste was concerned about approving this project plan before the water quality regulations, the sewer authorization, and the creation of a development district to fund future roads were complete. The other Commissioners were aware of these issues, but they determined that these issues were addressed at a concept level for the project plan. The remaining, more specific issues could be addressed prior to approval of the preliminary plan.

CONDITIONS

The Planning Board approves Project Plan No. 9-94004 subject to the following conditions:

1. Development Ceiling

The project plan for the Clarksburg Town Center is limited to 1300 dwelling units, 150,000 square feet of retail space, and 100,000 square feet of office space to be constructed in three basic phases as shown in the project plan. The following is the staging plan for traffic improvements:

- a. Stage 1 - 950 Units
- b. Stage 2 - 155 Units
- c. Stage 3 - 195 Units
 - 90,000 Square Feet of Retail
- d. Stage 4 - 60,000 Square Feet of Retail
 - 75,000 Square Feet of Office
- e. Stage 5 - 25,000 Square Feet of Office

The public building areas (i.e., elementary school, park buildings, and library) are not included in the calculations.

2. Transportation Improvements

The following road improvements, at each stage of development, are needed to provide enough capacity to serve the proposed development:

- a. Stage 1 - Reconstruction of the southbound right turn lane along MD 355 at MD 121 to provide a "free flowing" movement.
- b. Stage 2 - Construct an eastbound left turn lane along MD 121 at MD 355.
 - Construct a westbound left turn lane along MD 121 at MD 355.
- c. Stage 4 - Construct a northbound right turn lane along MD 355 at Stringtown Road.
- d. Stage 5 - Restripe eastbound Comus Road to provide exclusive left turn lane at MD 355.
- e. A-260 (Stringtown Road) must be dedicated to a right-of-way of 120 feet. At the preliminary plan, if determined that the property is not part of a participation agreement with MCDOT and other property owners, the safety improvements described in paragraph 4., will be made to Stringtown Road.

f. Participate in the Gateway I-270 Office Park road improvements as described below unless determined as not appropriate at the preliminary plan. At such time as the developer of the Gateway 270 Office Park commences construction of its required improvements between I-270 northbound off-ramp and the entrance to Gateway 270 Office Park (Transportation Planning Division memorandum dated September 25, 1989, Paragraph 1.b. and 2.), the applicant shall participate in such improvements provided:

1. Applicant has not completed its Stage 3 traffic improvements for the project.
2. Gateway I-270 preliminary plan has not expired.
3. Applicant's participation shall be limited to its pro rata share of traffic through this link in relation to the traffic to be generated by Gateway I-270 Office Park approvals plus any other approved development projects that place traffic through this link.

3. Dedication and Construction of A-305 (Mid-County Highway)

A-305 (Mid-County Highway) must be dedicated to a right-of-way of 80 feet and constructed as a two lane, open section arterial to replace Piedmont Road unless the scope of improvements are reduced at preliminary plan. Along that portion of A-305 near Stringtown Road, the required dedication shall be 40 feet from the current center line of Piedmont Road (along Hennigan, Purdum et al) which will allow for construction of A-305 to Stringtown Road at its current location. If the right-of-way is not available at the time of record plat for that portion of the property along this section, the applicant shall dedicate the full 80 feet along this portion of A-305. Construction will not be necessary until construction of single family detached units within the existing right-of-way for Piedmont Road has started.

4. Dedication and Construction of A-260 (Stringtown Road)

If a participation agreement is determined necessary at preliminary plan, but does not occur before the necessary access points to the commercial area or part of the residential area from A-260 are needed, then the following improvements to existing Stringtown Road must be completed to increase safety as required by MCDOT. For safety purposes, the improvements at public streets A and H include 250-300 feet of bypass travel lanes at each access point. The right-of-way for A-260 (Stringtown Road) will be located outside of the Historic District with a transition to the center line of the existing roadway north of the crossing of Little Seneca Creek.

5. Environmental Improvements Before Approval of the Preliminary Plan

Submit for review before the Planning Board hearing on the preliminary plan the following:

- a. Concept plan for the proposed SWM facilities and roads near or in stream buffer, and associated grading, with indication of where tree planting is permitted.
- b. A staging plan for SWM with the extent of each proposed phase of development and the order in which they will be built. This shall be submitted as part of the first site plan, and should cover the entire site.
- c. A preliminary forest conservation plan addressing priority for planting in the Little Seneca watershed. As site plans for each portion of the site that abut afforestation areas are submitted, detailed afforestation plans for that section will be provided. Within each area of development, planting shall occur as early as practicable given land development activity constraints in accordance with logical staging concepts. Forestation requirements will be satisfied first in Little Seneca basin on-site, then in the Little Bennett basin on-site, then in stream buffer areas in Little Seneca off-site if the land is made available, and if a good faith effort to arrange such land availability fails, then elsewhere on the site.
- d. Applicant shall meet all requirements for preliminary water quality plan submission and approval, per Chapter 19, Article V - "Water Quality Review in Special Protection Areas" (proposed monitoring plan may be submitted as part of the review of the site plan). Location of units, roads, and other layout concerns will be subject to the final water quality regulations.

6. Environmental Improvements

- a. Minimize disturbance in the stream buffer except for road crossings, unavoidable utilities, SWM locations adjoining the town center retail area and greenway road, soft surface pathways, and memorial elements.
- b. As part of the preliminary plan, provide an area within the applicant's stormwater management facilities for stormwater management for the school site .

7. Park/School

The proposed layout of the park/school site is generally acceptable. At the preliminary plan, the final concept plan and related terms and conditions will be finalized in coordination with the Parks Department and Montgomery County Public Schools.

8. Historic Preservation

Incorporate the following items into the project plan before review of the site plan for this area:

- a. Minimize the width of both the right-of-way and paving (50 feet of ROW and 24-26 feet of paving, subject to approval by MCDOT) for Redgrave Place (Main Street) located within the Historic District.
- b. Provide access easements, if applicable, to future public sewer at the intersections of A-260 (Stringtown Road) and Redgrave Place (Main Street) with MD 355 (Old Frederick Road).
- c. Provide a small open space along the northern edge of the greenway next to Redgrave Place (Main Street) with an interpretive memorial element for the family of John Clark that incorporates the existing grave markers.
- d. If the ROW is available, construct Main Street to MD 355 within the Historic District prior to completion of Stage 3. At such time when the land is made available, share direct moving expenses only for relocating an existing house within the Historic District, and if the applicant and property owner agree, make available the identified outlot to be merged with a portion of the adjacent parcel so as to create another lot.

9. Compatibility with Existing Church and Adjacent Residences Within the Historic District

Increase the setback of the proposed public street located next to the church within the Historic District to 30 feet and provide screening for the existing cemetery. Relocate the tot lot away from the existing church, and maintain the area as open space to provide a potential linkage to the church. The size of lots and setbacks of the proposed development must match, approximately, the development standards in the

R-200 Zone for building setbacks and width of lots along the southeastern boundary of the site within the Historic District. Revise the landscape plan to increase visibility to the church. Provide an easement for a pedestrian connection to the church for the proposed, adjacent street.

10. Revise the Layout of Streets

Incorporate the following items into the site plans for each stage of development:

- a. Improvements to the Town Square - Increase the size of the Town Square by utilizing a loop concept as shown on the revised drawing to reduce conflicts with east/west traffic and to improve pedestrian access.
- b. Relocate A-260 (Stringtown Road) in accordance with the revised alignment diagram to reduce the impact on adjacent residences. Reduce the number of access streets to A-260 from the area of the existing single family detached units (5) on the north side of Stringtown Road to meet the design standards for arterial roads.
- c. Eliminate the access to the proposed elementary school from MD 121 and provide access from the Greenway Road.
- d. Revise the access to A-305 (Mid-County Highway) to allow a direct connection from Burnt Hill Road to the Greenway Road, and improve the access to the single family detached units by utilizing private drives adjacent to A-305.

The present street system shown in the project plan requires waivers of existing standards. The applicant and staff have met with MCDOT to discuss the waivers. All waivers must receive final approval from MCDOT before approval of the site plan.

11. Staging of Amenities

All amenities shown within each stage of development must be completed within that stage of development. The concept design for the greenway, the school/park, and other large play fields, must be completed before approval of the first site plan.

Construction of the amenities within the greenway must be finalized before the completion of Stage 3.

12. Landscaping

The following items must be incorporated into the site plans:

- a. Street trees, high quality street lights, sidewalk paving types, and street furniture as part of the design for the streetscape of roads, the Town Square, and the neighborhood squares.

- b. Increased landscaping in the commercial parking area.
- c. Landscaping for the buffer areas adjacent to all arterial roads.
- d. Screening for the existing homes within the Historic District.
- e. Landscaping for all stormwater management areas.

13. Maintenance

Maintenance of the private recreation areas, stormwater management facilities, applicable open spaces, and other amenities on private land must be maintained by an appropriate homeowners association. Before approval of the first building permit, submit a maintenance document that establishes an overall organization that establishes responsibility for maintenance of these facilities.

14. Additional Access to A-260 (Stringtown Road) and A-27 (Clarksburg Road)

Provide for an additional connection from Redgrave Place (Main Street) to the boundary of the historic district to permit a future connection to A-260 (Stringtown Road). Connect the private street that leads to the Town Square to A-27 (Clarksburg Road) with approval from the Planning Board and MCDOT provided this private street remains private.

As part of the review of the project plan, the Planning Board approved three waivers. The first waiver allows the use of closed section streets (curb and gutter) in special protection areas instead of open section streets. Closed section streets were approved because the high density of the development and the mix of commercial and residential uses are not appropriate for the use of open section streets. The project plan includes special stormwater infiltration measures for the streets instead of the use of open section streets. The Clarksburg Master Plan anticipated the use of closed section streets in the town center area.

The second waiver concerns the use of on-street parking. Waivers to utilize some on-street parking to reduce the requirement for off-street parking were approved subject to final review by the Planning Board at the site plan hearings.

The Planning Board also approved a third waiver to reduce setbacks along the streets and boundary lines as permitted in the Zoning Ordinance if designated in a master plan. These reduced setbacks will allow buildings to be oriented to streets to encourage the use of sidewalks and generally improve the pedestrian environment. The Clarksburg Master Plan also anticipated the reduction in setbacks to foster the creation of a pedestrian oriented town.

FINDINGS

1. Conforms with the Requirements and Intent of the RMX-2 Zone

The Planning Board finds that Project Plan #9-94004, as conditioned, meets all of the purposes and requirements of the RMX-2 Zone. A summary follows that compares the development standards shown with the development standards required in the RMX-2 Zone.

DATA SUMMARY: CLARKSBURG TOWN CENTER

Items	Required	Proposed
Lot Area	NA NA	201.34 acres (RMX-2) 68.82 acres (RDT) 270.16 acres total
Minimum Green Area or Outside Amenity Area:		
a. Within Commercial Area	15% (2.19 ac.)	28% (4.06 ac.)
b. Within Residential Area	50% (93.37 ac.)	53% (99.47 ac.)
c. Within RDT Area	NA	(25.72 Acres)
Density of Development Shown in the Master Plan:		
a. Retail	150,000 sq.ft.	150,000 sq.ft.
b. Office	770,000 sq.ft.	100,000 sq.ft.
c. Civic Use (not including elementary school)	NA	24,000 sq.ft.
d. Residential	1380 du (5-7 du/ac)	1300 du (6.6 du/ac)
MPDU's	12.5%	12.5%
Maximum Gross Leasable (Non-Residential) Floor Area	600,000 sq.ft. (0.5 FAR)	250,000 sq.ft. (0.39 FAR)
Setbacks:		
a. From One-Family Zoning		
- Commercial Bldgs.	100 ft.	300 ft. min
- Residential Bldgs.	50 ft.	50 ft. min.
b. From Any Street*		
- Commercial Bldgs.	NA	0 ft. min.
- Residential Bldgs.	NA	10 ft. min.
Building Height:		
a. Commercial	4 stories	4 stories (50 ft.)
b. Residential	4 stories	4 stories (45 ft.)
Parking Spaces:		
a. Off-street	2910	2910
b. On-street	NA	596**

- Notes: *
- No minimum setback is required if in accordance with an approved master plan.
- **
- Off-street parking is necessary to provide street oriented buildings. A waiver from the on-street parking requirements is needed within some of the townhouse and multi-family areas.

The setback of residential buildings next to the Clarksburg Historic District must be modified to have a minimum setback of 50 feet.

2. Conforms to the Clarksburg Master Plan and Hyattstown Special Study Area

The Planning Board finds that Project Plan #9-94004, as conditioned, is in conformance with the Approved and Adopted Clarksburg Master Plan and Hyattstown Special Study Area. The land use, circulation, and urban design objectives described in the Master Plan have been met by the Clarksburg Town Center. The mix of dwelling units conforms to the guidelines in the master plan as summarized in the following chart:

Unit Types	Master Plan Guidelines	Proposed Density Range
a. Single family detached units	10-20%	130-260 Units
b. Single family attached and townhouses	30-50%	390-650 Units
c. Multi-family units	25-45%	325-585 Units

3. Compatibility with the Neighborhood

The Planning Board finds that the project plan, as conditioned, will be compatible with the existing and potential development in the general neighborhood because of its location, size, intensity, staging, and operational characteristics.

4. Will Not Overburden Existing or Proposed Public Services

The Planning Board finds that the proposed development, subject to its compliance of any requirements imposed by the preliminary plan will not overburden existing public services nor those programmed for availability, concurrently with each stage of development. Since approval of the project plan does not determine authorization or prevent other developments from proceeding, the Planning Board approves the project plan with the understanding that final authorization is dependent on the finding that Clarksburg Town Center will not preclude development of the Germantown Town Center.

5. Is More Efficient and Desirable than the Standard Method of Development

The Planning Board finds that the proposed project, as conditioned, will be more efficient and desirable than the standard method of development. This optional method project consists of a mix of uses which are recommended in the Master Plan. These uses are not permitted under the standard method of development.

The amenities and facilities provided as part of the optional method of development fosters the creation of a transit and pedestrian oriented town surrounded by open space. The green way network of amenities provides a major open feature. The town

ied
square, and the neighborhood squares provide amenities within the entire development. The streetscape system provides a comprehensive system in addition to the minimum design standards. The recreational facilities provide small open play areas for the local neighborhood and large fields for the entire planning area that exceed the minimum standards. The orientation of buildings to streets and the layout of blocks provide a pedestrian orientation for the town center.

6. Includes Moderately-Priced Dwelling Units

The application includes moderately-priced dwelling units.

TABLE 19

STAGE 2
<p>DESCRIPTION: Stage 2 includes those portions of the Town Center District that do not drain into the Ten Mile Creek watershed. (See Figure 54.)</p>
<p>STAGING TRIGGERS¹:</p> <ol style="list-style-type: none"> 1) Either (a) State and County enabling legislation for development districts, or (b) alternative infrastructure financing mechanisms are in place. 2) County Council adopts a new Water Quality Review Process (WQRP) and DEP issues Executive Regulations related to this process. 3) WSSC and the County Executive indicate that sufficient sewer treatment and conveyance capacity exists or is programmed to accommodate development in this stage and that sewer authorizations for the Germantown Town Center are not put at risk.
<p>IMPLEMENTING MECHANISMS²:</p> <ol style="list-style-type: none"> 1) At the time of Sectional Map Amendment (SMA), the Stage 2 area in the Water and Sewer Plan is amended to S-4, W-4 by the County Council in accordance with the policy recommendations of this Master Plan. The Stage 2 area of the Water and Sewer Plan will automatically advance to S-3, W-3 upon Planning Board approval of a preliminary plan of subdivision for which WSSC and the County Executive indicate that Staging triggers 1, 2, and 3 have been met. 2) Properties in this stage are subject to AGP and APFO approval by the Planning Board. 3) One or more development districts (or alternative financing mechanisms) that can provide public facilities in accordance with the APFO and additional local determinations by the County Council are implemented.

1 All staging triggers must be met to initiate this stage of development.

2 Individual developments within this stage can proceed once public agencies and the developer have complied with all of the implementing mechanisms.



Montgomery County Government

MEMORANDUM

June 22, 1995

TO: William H. Hussmann, Chairman
Montgomery County Planning Board

FROM: Robert C. Merryman, Acting Director
Department of Environmental Protection *Robert C. Merryman*

SUBJECT: Sewerage System Capacity for Stage 2, Clarksburg Master Plan

The recent completion of the Clarksburg Master Plan has resulted in the initiation of the development process for the Clarksburg Town Center by the owner of this property. As you know, the Clarksburg Town Center Project Plan and the Preliminary Plan were filed with the Planning Board earlier this year, with discussion scheduled with the Board this past April. At these work sessions, it was discussed that the Stage 2 "triggers" or conditions identified in the Clarksburg Master Plan needed to be addressed as a part of the Planning Board review of the proposed project.

The purpose of this memorandum is to address the third staging trigger for Stage 2 which states: "WSSC and the County Executive indicate that sufficient sewer treatment and conveyance capacity exists or is programmed to accommodate development in this stage and that sewer authorizations for the Germantown Town Center are not put at risk." Accordingly, DEP, representing the County Executive and WSSC have coordinated in the development of the attached wastewater capacity analysis entitled, Seneca Creek/Little Seneca Creek/Muddy Branch Ten Year Capacity Analysis, dated May 1995.

Recommendation:

Based on the sewerage capacity analysis, it can be concluded that sufficient sewerage treatment and conveyance capacity exists or is programmed to accommodate development in the area defined as Stage 2 of the Clarksburg Master Plan, thus allowing the Clarksburg Town Center to move through the development authorization process, in regard to this particular staging trigger. The sewer service authorization dependencies will address the specific capacity coordination issues highlighted in the master plan.

The remaining issue identified in the subject staging trigger (i.e., sewer authorizations for the Germantown Town Center are not put at risk), is also addressed by the capacity analysis and the proposed authorization dependencies. Since the Germantown Town Center is not yet authorized for sewer service, this development will also be issued the same authorization

Office of the Director, Department of Environmental Protection

101 Monroe Street, Room 627, Rockville, Maryland 20850-2589, 301/217-2333



dependencies as the Clarksburg Town Center for that portion of the sewerage system required for this development. Under this arrangement, the Clarksburg Town Center and Germantown Town Center are not in competition for capacity but are jointly dependent on the implementation of the same sewerage projects. Neither of these Town Center projects should experience any significant delay if the identified sewerage project schedules and funding remain on track as presently programmed or planned.

Therefore, the capacity analysis and WSSC's proposed course of action to develop authorization dependencies satisfies the technical issues related to existing and programmed sewerage capacity and proposes a framework to coordinate the sewer authorizations with progress on implementation of needed CIP projects. Accordingly, this memorandum and the attachments address the policy issues related to the capacity assessment, and should satisfy the requirements of the third staging trigger of the Clarksburg Master Plan for Stage 2 development.

Analysis of Capacity:

The attached capacity analysis was developed by the Water Resources Planning Section at WSSC as an update and refinement of earlier capacity reports used by WSSC and the County to evaluate the complex issues and interrelationships of sewerage facilities in those basins that comprise the Seneca/Muddy Branch system. The cover letter to this report from Dominic Tiburzi, Division Manager, Planning and Engineering Division to David Lake of DEP, dated May 26, 1995 summarizes the basis and findings of this detailed technical analysis. The conclusions reaffirm the concerns raised during the development of the Clarksburg Master Plan, which are incorporated in the Plan as "Staging Principle #1: Wastewater Treatment and Conveyance Limitations", stating "sewerage treatment and conveyance capacity in the Seneca Creek basin is severely constrained and will limit any new development in Clarksburg in the foreseeable future."

The capacity analysis moves beyond the general language of the master plan and beyond the simple conclusion that, based on standard design criteria, that there is no capacity for additional development in the Clarksburg Master Plan area. Rather the recent capacity analysis identifies that the capacity of the components which comprise the sewerage system (sewers, pumping stations (WWPS) and wastewater treatment plant (WWTP)), is dependent on the relative risk of surcharging and/or overflow. This analysis acknowledges that system design includes factors of safety that allow for capacity beyond the "rated" capacity of the individual system components.

Accordingly, the calculated relative level of risk has been graphed to illustrate the status of capacity from 1994 to 2004, based on development expectations and approved or planned sewerage infrastructure improvements. These graphs simplify the presentation of a variety of fairly complex issues relative to capacity which are based on an extensive data base of population projections, flow factors, construction schedules and system design details. Comprehensive explanations of these graphs are presented by WSSC in the capacity analysis and in the attached WSSC cover letter.

Mr. William H. Hussmann
June 22, 1995
Page 3

The key conclusions of the capacity analysis indicate that the most critical components (lowest factor of safety over the next five years), include the Little Seneca WWPS/Force Main (FM)/Gunnerys Branch F System and the Seneca WWTP/WWPS/Muddy Branch System. Both of these systems have approved CIP projects to address the present capacity concerns. The Seneca WWTP/WWPS upgrade project (S-53.06) has been under construction for nearly two years with an estimated completion date of July, 1997. The Muddy Branch relief sewer project (S-85.14) has been in the approved CIP since FY91 and construction is expected to be started later this year with an estimated completion also in 1997. The Little Seneca WWPS/FM/Gunnerys Branch F System project (S-84.27) is in the approved FY96 CIP, is presently under design and is scheduled to begin construction of the needed force main in early 1996; completion is expected in less than one year.

Other identified system needs (Little Seneca Trunk Sewer Part 2/Part 3, Seneca WWTP expansion, etc.) are proceeding through the planning or design phases and the schedules for these projects, under present assumptions for growth/development, will allow WSSC to manage flows during this critical eight to ten year period covered by the capacity analysis. Upon completion of these sewerage system projects, all system components will have capacity beyond the standard design criteria (FS-0 and FS-S greater than one), removing the potential for sewerage system constraints on planned development in the Clarksburg and Germantown areas for several years.

The need for coordination and management of wastewater flows, future development, implementation of adopted WSSC CIP projects and planning schedules is essential to the successful management of the sewerage system in the Seneca Creek/Little Seneca Creek/Muddy Branch service areas within the identified ten year period (1994-2004.) Accordingly, the County Executive supports the actions proposed by WSSC on future sewer authorizations in these service areas. WSSC has proposed in the capacity analysis cover letter, a set of five authorization conditions (dependencies), that would be applied to new requests for service in the Seneca/Muddy Branch basins within the next several years, until these infrastructure projects are either on-line or construction is imminent.

This approach allows presently authorized projects to proceed to construction on a "first come-first serve" basis under the present limited capacity conditions and will allow for authorization (with dependencies) of new proposed development, allowing projects to proceed through the development process as long as flows are being managed and commitments on the required CIP projects remain on schedule. This proposed course of action appears to be both reasonable and responsible, allowing new development to move forward as key planning, funding and permitting decisions are made for the necessary CIP projects. This approach allows for the maximum safe utilization of the existing sewerage system and accommodates additional development in the Clarksburg and Germantown areas while implementation of the identified CIP projects is proceeding. This coordination is particularly important over the next five years as key projects presently in design or under construction come on line and others move from the planning phase into design and construction.

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Mr. William H. Hussmann

June 22, 1995

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If you have any questions related to this memorandum or the capacity analysis as it relates to the recommended development policies in the Clarksburg or Germantown areas, please contact David Lake of this office at (301) 217-2395.

RCM:DWL:sh

Attachment

cc: Elizabeth Davison
David Lake
Robert Marriott
Bruce Romer
Dominic Tiburzi

H:\SEW\BCLRK\DL

(26) (4)



WASHINGTON SUBURBAN SANITARY COMMISSION

14501 Switzer Lane • Laurel, Maryland 20707-5902

(301)206-8000 • 1(800)828-6439 • TTY: (301)206-8345

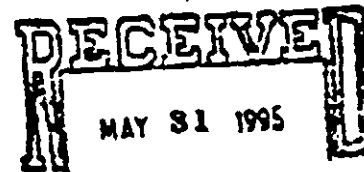
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GENERAL MANAGER

Charles A. White

May 26, 1995



DIVISION OF
WATER RESOURCES MGMT.

Mr. David Lake, Manager
Water and Wastewater Management
Montgomery County Government
Department of Environmental Protection
250 Hungerford Drive, Second Floor
Rockville, MD 20850-4159

Re: Seneca Creek/Little Seneca Creek/Muddy Branch
Wastewater Capacity Analysis

Dear Mr. Lake:

As you know, the Clarksburg Master Plan contains a staging sequence to provide for the orderly and fiscally responsible development of public facilities to service the Clarksburg area. These stages can be initiated once all of a number of "triggers" or conditions are met. There are no triggers for Stage 1; however, for Stage 2 and beyond, one of the triggers is that "WSSC and the County Executive indicate that sufficient sewer treatment and conveyance capacity exists or is programmed to accommodate development in this stage and that sewer authorizations for the Germantown Town Center are not put at risk".

By letter dated February 1, 1995, the developer of the Clarksburg Town Center asked both you and I for a determination of whether wastewater capacity was sufficient to meet trigger #3 for Stage 2 of the Master Plan. I responded by letter dated February 23, 1995, stating that sufficient sewerage capacity does not now exist at the Seneca Wastewater Treatment Plant, nor was it yet programmed in the CIP. I also stated that this capacity determination would change over time, and that we were undertaking an analysis of capacity over the next ten years in the Seneca Creek, Little Seneca Creek and Muddy Branch basins.

This analysis is now complete and is enclosed for your information. The comments you made on the draft of this report were accommodated in the final version.

This analysis is a logical extension of the capacity analysis my staff did in 1993 that led to the determination of the potential overflow status for the Seneca Creek and Muddy Branch basins. The current analysis is an improvement and refinement over the 1993 analysis because future wastewater flow predictions for the key developments in the Little Seneca/Clarksburg area

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Mr. David Lake
Montgomery County Government
Seneca Creek/Little Seneca Creek/Muddy Branch
Wastewater Capacity Analysis
May 26, 1995
Page 2

were based upon build-out schedules submitted by the developers. Also, the current analysis attempts to quantify the lack of capacity, and hence the relative risk, by use of a factor of safety against surcharge and overflow.

The Factor of Safety vs. Surcharge (FS-S) = $\frac{\text{Safety Capacity}}{\text{Peak Flow}}$

The Factor of Safety vs. Overflow (FS-O) = $\frac{\text{Total Capacity}}{\text{Peak Flow}}$

An FS greater than one means that the capacity is greater than the predicted peak flow, which is desirable. An FS less than one means that the capacity can only handle a percentage of the predicted peak flow (e.g. FS-S = .9 means the safe capacity can handle only 90% of the predicted peak flow without surcharging). The lower the FS, the lesser the capacity to handle peak flows.

An FS-S less than 1 means that surcharging during wet weather events is likely to occur. Although this is a serious concern that demands attention and future relief projects, it does not necessarily mean that an overflow is imminent. An FS-O less than 1, however, is a serious condition that means the existing total capacity cannot handle peak flows without overflowing.

The key conclusion of this analysis is that FS-S is less than 1 today for the Little Seneca WWPS/FM/Gunners Branch F system (0.7) and the Seneca WWTP/WWPS system (0.51). The FS-O for the Seneca WWTP/WWPS system is also less than 1 today (0.91). This is the most critical concern in the Seneca/Muddy Branch basins.

Given the above, the following actions will be taken on future authorizations in the Seneca/Muddy Branch basins:

1. All authorizations will be made dependent on: full funding of the Seneca WWTP expansion to 20 mgd in the WSSC CIP; and issuance of a draft NPDES permit for the expansion to 20 mgd.

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4

Mr. David Lake
Montgomery County Government
Seneca Creek/Little Seneca Creek/Muddy Branch
Wastewater Capacity Analysis
May 26, 1995
Page 3

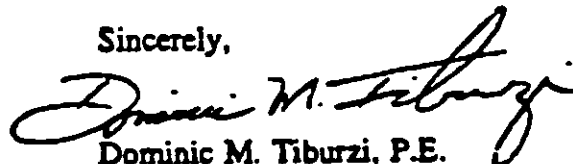
2. All authorizations will be warned that they may become dependent on the expansion to 20 mgd being under construction, if FS-O decreases below 1 after the on-going Seneca Upgrade and the Muddy Branch relief sewer are in service.
3. All authorizations in the areas tributary to the Little Seneca WWPS/FM/Branch F System will also be dependent on the Little Seneca FM expansion (S-84.27) being under construction.
4. All authorizations in the areas tributary to the Great Seneca and Gunner's Branch trunk sewers will continue to be made dependent on those relief projects being under construction, which is planned to occur this summer and fall.
5. Authorizations tributary to areas other than those noted in 3 and 4 above will be warned that they may have future dependencies on relief projects, depending on the progress of those projects and the rate of hook-ups.

Any future sewer service category change requests in the Seneca/Muddy Branch basins reviewed by WSSC will contain similar comments to those stated in items 1-5 above.

Regarding the development of the Clarksburg Town Center, when an application for service is submitted, it will be authorized dependent upon: full funding of the Seneca expansion in the CIP; issuance of a draft NPDES permit for the expansion; and the Little Seneca FM expansion, S-84.27, being under construction. There will also be additional dependencies such as the temporary WWPS and FM (S-84.42 and 43) and the 20-inch water line that feeds the area (W-46.13). There would also be warnings about other dependencies, as noted above.

If you have any comments or concerns regarding this analysis, please contact me at (301) 206-8866.

Sincerely,



Dominic M. Tiburzi, P.E.
Division Manager
Planning & Engineering Division

DMT/jl
Enclosure

29 7

M E M O R A N D U M

August 1, 1995

TO: William Hussmann, Chair
Montgomery County Planning Board

FROM: Glenn Orlin, ⁶⁰Senior Legislative Analyst
County Council

SUBJECT: Study to expand impact taxes

As you may know, the Council today approved some minor revisions to the impact tax law. It also concurred with my suggestion that an interagency staff group study whether or not to expand impact taxes beyond Germantown and Eastern Montgomery County to some other parts of the county. The analysis will include: the boundaries of potential districts and their rates, projections of revenue that would be generated, and an assessment of economic impact. If there is consensus within this group, the recommendation could come back in the form of proposed legislation. The attached memorandum to the Management and Fiscal Policy Committee describes the rationale for the study.

The Council would like this study to be completed by this fall, coincident with its worksessions on the AGP's Policy Element. At that time the Council will also be considering the Planning Board's and Executive's recommendation that Clarksburg be designated as a policy area, which is a pre-condition to its designation as an impact tax district.

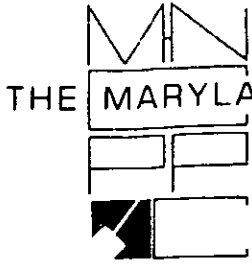
I am writing to ask that Charlie Loehr and Karl Moritz be available to work with the Department of Transportation, the County Attorney's Office, the Office of Planning Implementation, and the Council staff in this study. The primary task of your staff would be to estimate the existing and buildout development of each of the policy areas that would be considered in this study. Based on initial discussions with Charlie and Karl, we think this can be accomplished within the next two months.

If you have any questions, don't hesitate to call (217-7936).

GO:mjb
86

Attachment

30



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring Maryland 20910-3760

September 22, 1995

MEMORANDUM

TO: Joe Davis, Coordinator
Development Review Division

VIA: Bud Liem, Transportation Coordinator
Transportation Planning Division

FROM: Ki H. Kim, Transportation Planner *KKK*
Transportation Planning Division

SUBJECT: Preliminary Plan No. 1-95042
Clarksburg Town Center Project

This memorandum contains 1) our recommendations on the phasing requirements and 2) discussions on the proportional share of roadway construction for the Clarksburg Master Plan.

I. Phasing

We recommend that the following phasing requirements be conditioned upon issuance of building permits for the subject preliminary plan:

- A. The first 44 dwelling units without any off-site road improvements.
- B. After the 44th building permit, the developer must start reconstruction of the southbound right turn lane along MD 355 at MD 121 to provide a "free flowing" movement.
- C. After the 300th building permit, the developer has two options:
 - 1) Construction of A-260 from MD 355 to the southern access road of the commercial site (commercial access road between A-260 and P-5) and construction of P-5 across the stream valley into the residential area north of stream valley.

- 2) Construction of A-260 from MD 355 to the northern access road of the residential development.

Construction of a northbound right-turn lane along MD 355 at A-260 should be included in this phase.

- D. After the 600th building permit, the developer must start construction of remaining section of A-260 to A-305, and intersection improvements at MD 355 and MD 121 to construct eastbound & westbound left-turn lanes along MD 121.
- E. Construction of A-305 from A-260 to MD 121 must begin when the developer starts building any of the residential units located between A-305 and the first parallel residential street south of A-305.

The construction of A-260 should be for two lanes which will be used ultimately as the southbound lanes in accordance with the August 8, 1995 Alignment No. 2. The hiker/biker trail (eight feet) should be constructed along west side as A-260 is constructed, in accordance with the phasing recommendations as described above.

II. Proportional Share of Roadway Construction

Based on our July 28, 1995 memo, we would anticipate that, if the developer builds two lanes of A-260 from MD 355 to A-305 within the master planned alignment, this should represent his part of the total roadway construction cost for Clarksburg. Final determination of actual share would be determined by the County Council when the impact tax legislation is considered for Clarksburg.

KHK:kcw/pp95042b.mmo
Attachments

Phase "A"

Note:
The site shown as shown on this plan is for reference purposes only and is subject to change. The final layout for the site or portions of the site will be determined during the Site Preparation.

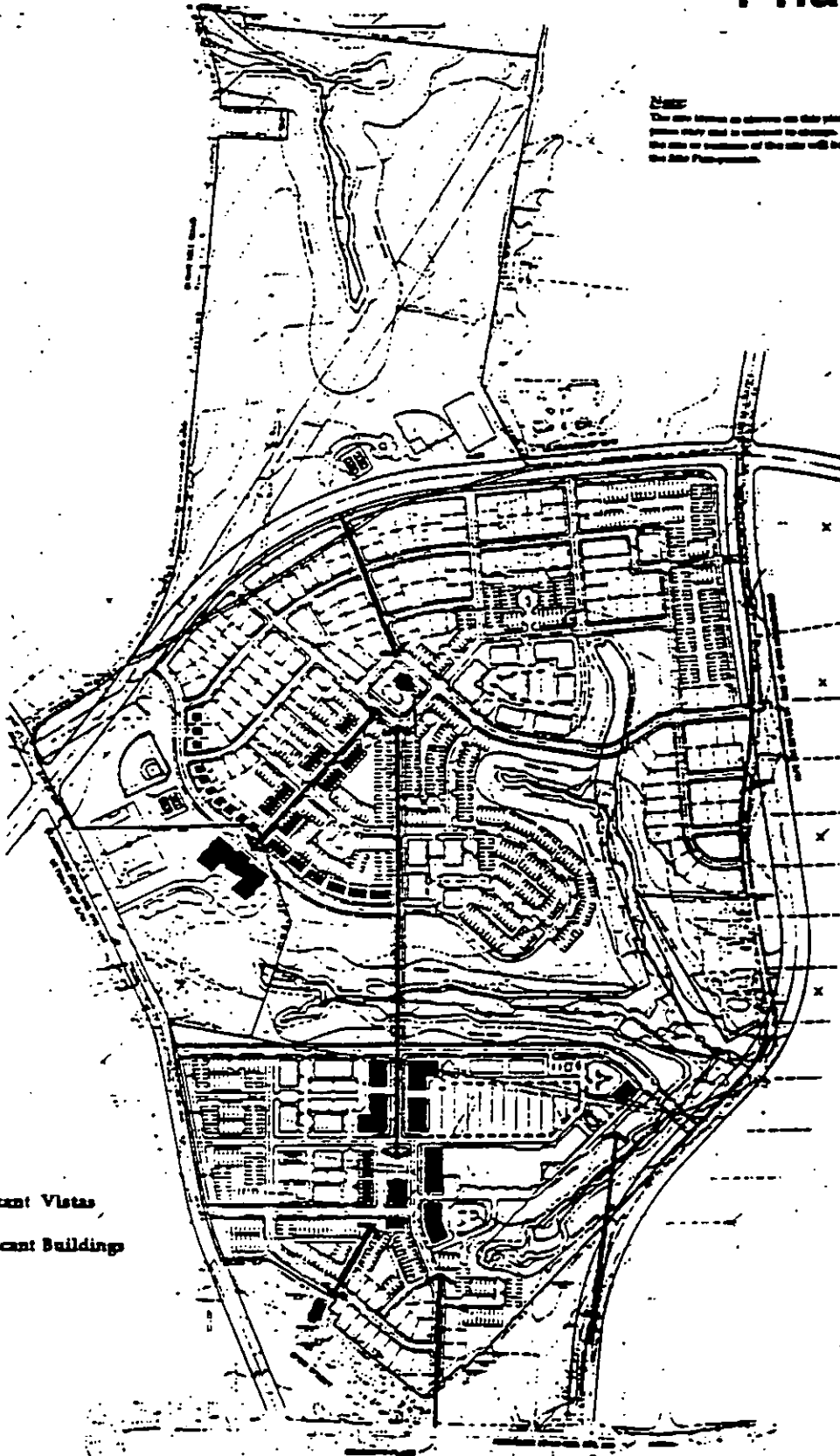
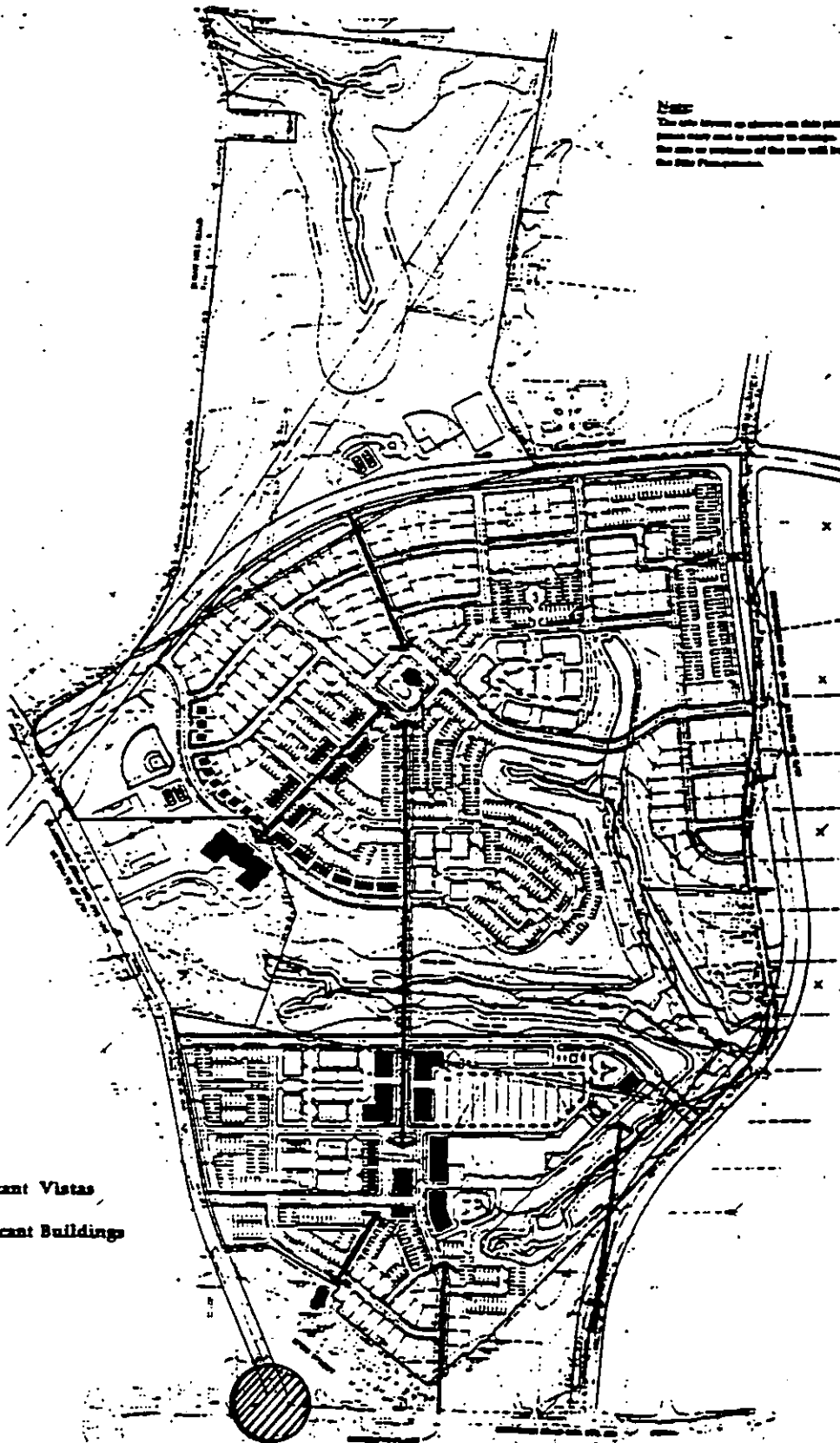


Exhibit 17
Illustrative Building Plan

Phase "B"

The site shown on this plan is for illustrative purposes only and is subject to change. The final layout for the site or portions of the site will be determined during the planning process.



Legend



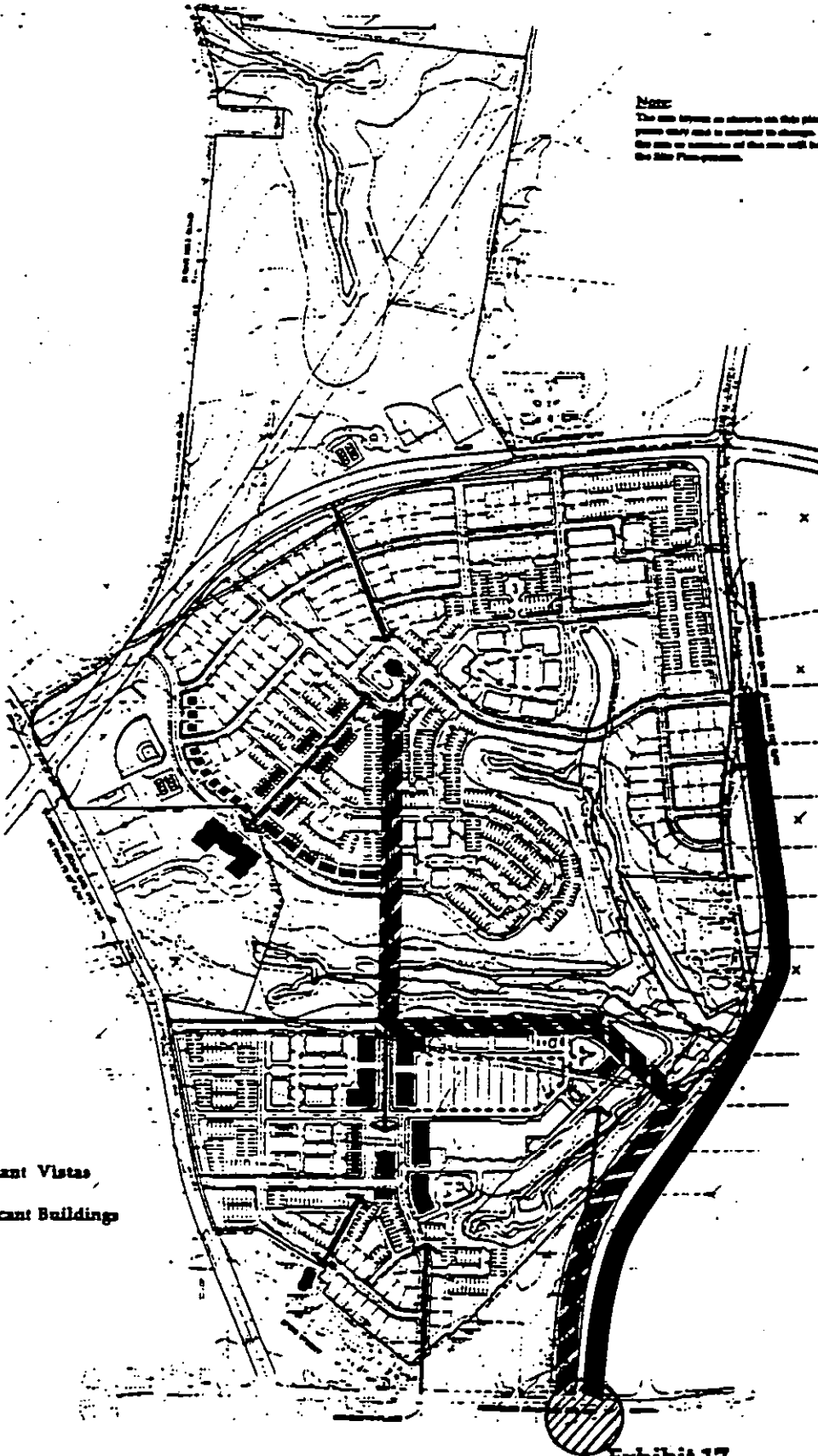
-  Important Vistas
-  Significant Buildings

Exhibit 17
Illustrative Building Plan

Phase "C"

Note:
The new layout as shown on this plan is for reference purposes only and is subject to change. The final layout for the site or portions of the site will be determined during the site preparation.



Legend



-  Important Vistas
-  Significant Buildings

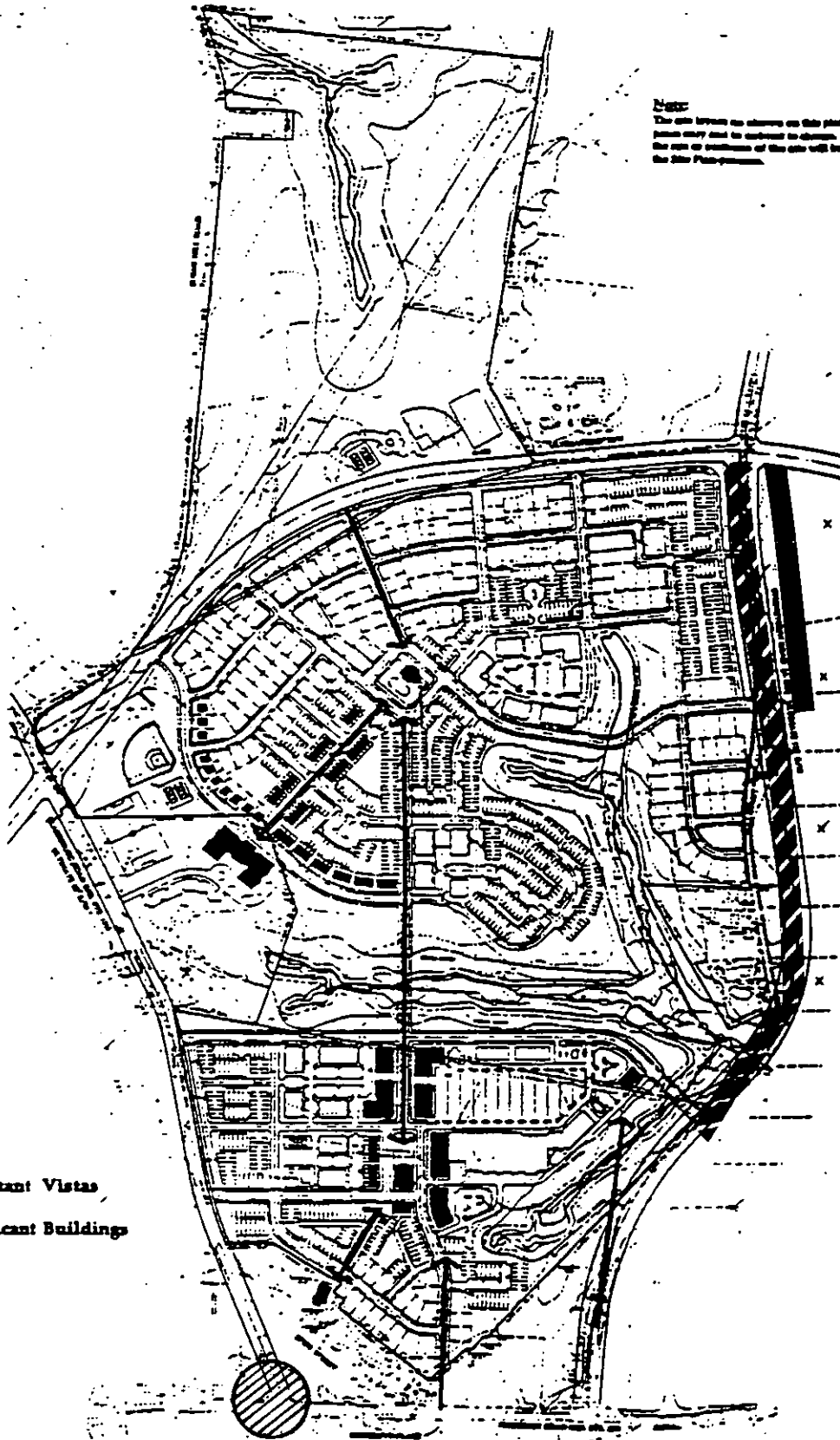
Exhibit 17

Illustrative Building Plan

CLARKSBURG TOWN CENTER
MONTGOMERY COUNTY, MARYLAND

Phase "D"

Note:
The site shown on this plan is for reference purposes only and is subject to change. The final layout for the use or contents of the site will be determined during the Site Preparation.



Legend



-  Important Vistas
-  Significant Buildings

Exhibit 17
Illustrative Building Plan

CLARKSBURG TOWN CENTER
MONTGOMERY COUNTY, MARYLAND



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

September 21, 1995

TO: Joe Davis
Development Review Division

FROM: Lise Soukup
Environmental Planning Division

Ld

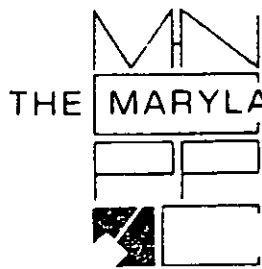
SUBJECT: Revised Conditions for Preliminary Plan #1-95042,
Clarksburg Town Center

RECOMMENDATION: APPROVAL WITH CONDITIONS

The Environmental Planning Division (EPD) has revised its recommended conditions of approval from those of our previous memo dated 7/26/95 (attached) for the Clarksburg Town Center preliminary plan, #1-95042. Both the applicants' engineers and Montgomery County Department of Environmental Protection (DEP) staff agree that the revised stormwater management concept (shown on plans dated 9/21/95) appears technically feasible given the following conditions.

1. The commercial area's stormwater management forebay, Sand Filter #6 and associated grading that cannot be forested shall be located outside of the stream buffer. The SWM facilities should be designed to promote aesthetics and effectiveness.
2. The SPA stream buffer at the head of the commercial area's tributary may only be encroached upon by:
 - A. Portions of three townhouse lots, and;
 - B. Portion of the commercial service drive and associated grading.
3. Agricultural areas within the environmental buffer will be taken out of production and stabilized with a suitable grass cover no later than Spring, 1996.

DEP and EPD staff will continue to work together at site plan to refine and improve the Water Quality Plan for this project under the Special Protection Area (SPA) requirements. The location and design of best management practices are subject to DEP's approval of the SWM/Water Quality Plan and EPD's review of the grading plan. Planning Department staff and the applicant have agreed to keep the SPA buffer as shown on the preliminary plan, regardless of any future changes to M-NCPPC SPA buffer guidelines. However, other aspects of M-NCPPC's SPA guidelines will be considered at site plan (i.e., forest conservation plan details and ways to minimize imperviousness).



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring Maryland 20910-3760

July 26, 1995

TO: Joseph Davis, Coordinator
Development Review Division

VIA: Stephen Federline, Coordinator *LS for SDF*
Environmental Planning Division

FROM: Lise Soukup, Planner *LS*

SUBJECT: #1-95042, Clarksburg Town Center Environmental Review

The Environmental Planning Division (EPD) has reviewed the submissions for the Clarksburg Town Center, Preliminary Plan # 1-95042. Some EPD comments were addressed during the Project Plan stage; however, many issues need to be resolved either in the preliminary plan or the site plan. Also, the staff draft Planning Board guidelines for Special Protection Areas (SPA), which will become part of the Water Quality Plan requirements, call for a change in the environmental buffer delineation which will have a moderate effect on this site's proposed development. Staff therefore recommends APPROVAL, WITH THE FOLLOWING CONDITIONS:

1. The commercial area's stormwater management forebay and Sand Filter #5 shall be located outside of the environmental buffer and shall be designed to promote aesthetics and effectiveness.
2. The environmental buffer shall be redrawn to comply with the Planning Department's proposed SPA guidelines, which will be part of the Water Quality Plan requirements. The same uses and restrictions on disturbance and physical features will apply to this new buffer as have been decided for the Clarksburg Town Center Project Plan or, in the absence of specific Planning Board direction, as are specified in the M-NCPPC Environmental Management Guidelines. Staff recommends that, at a minimum, all impervious surfaces be relocated outside of the proposed SPA buffer.
3. Applicant shall not submit the site plan until both County Department of Environmental Protection Regulations and M-NCPPC Environmental guidelines for Special Protection Areas have been approved and/or adopted.

4. The site plan must be in accordance with any adopted SPA guidelines or regulations, except as determined by prior explicit Board actions.

SITE AND PROJECT DESCRIPTION

The 268-acres site is located at the headwaters of one of the main branches of Little Seneca Creek, a Use Class IV stream. King's Pond is situated on M-NCPPC Park property directly upstream of this site. The site includes 8.6 acres of wetlands, 15 acres of floodplain and 53.5 acres of forest. These features are generally confined to the stream valleys, although forest is more widespread on the RDT portion north of M-83. The main area south of M-83 is maintained as agricultural fields. The stream valleys are moderately steep (15-25%); slopes tend to be gentler near the heads of the tributaries, and are quite steep in certain areas on the east tributary and mainstem.

The applicant proposes roughly 1300 residential units and 17 acres of commercial use for this site, which is zoned RMX-2. The western side of the site consists of commercial/office uses, some public amenity uses, garden apartments and townhouses, and a few single family-detached units. The eastern side (between the mainstem and M-83) is residential (townhouses and single family-detached, with a few garden apartment buildings); an elementary school site is also proposed here. The RDT piece of the site will support only 3 lots.

The environmental features in the RDT area are very well preserved since virtually no development will occur here. The streams and their buffers in the main section of the site will experience numerous intrusions - two major road crossings using fill embankments (plus future widening of Stringtown Road by either this developer or the County), a pedestrian footbridge and sewer crossing of the mainstem, and eight sand filters and a pond forebay partially or wholly in the proposed SPA stream buffers. The forebay and three of the sand filters also encroach into the standard stream buffer; none of these stormwater management facilities can be forested.

PLANNING BOARD'S PREVIOUS ENVIRONMENTAL DECISIONS

At the project plan meeting, the Board resolved the following items in its discussion (these are in addition to the project plan conditions):

1. Agreed to permit stream buffer encroachment for the commercial greenway road's grading, based on the considered minimal environmental impact (grading in a cleared cornfield, proffered extraordinary sediment control, no imperviousness in buffer) and on alternative's effect on commercial area site design;

2. Established that the Clarksburg Town Center plans must comply with Water Quality Plan requirements and that locations of buildings, roads and parking are subject to change if required by the Water Quality Plan.

3. Agreed that all stream buffers must be forested wherever possible to meet requirements of the County's Forest Conservation Law and Clarksburg Master Plan objective; meadow/wildflower areas or other amenity landscaping must be placed outside buffers;

4. Agreed that the forest planting in Little Seneca Creek watershed is a priority, and instructed the applicant to make a good faith effort to find off-site priority planting area in this watershed before planting non-priority areas in Little Bennett Creek watershed.

DISCUSSION

Planning staff has diligently worked with the applicant on preliminary plan revisions since the May 11 approval of the Project Plan. EPD staff also circulated the latest proposed M-NCPPC SPA guidelines in the last week of June; they are to be reviewed by the Board in September. The most recent preliminary plan has introduced several changes. The applicant has indicated that the site plan will at least partially respond to the proposed SPA guidelines by moving impervious surfaces and stormwater management features outside of the new SPA buffer in some places.

One of the recommended conditions is intended to resolve the placement of the commercial area's stormwater management pond forebay and nearby Sand Filter #5 which are shown in the stream buffer on the latest preliminary plan. At project plan, EPD staff assured the Board that the forebay would be outside the buffer, with only a wooded dry pond located within the buffer. Staff also justified placing Sand Filter #5 (on the downstream side of the greenway road) in the buffer because it was surrounded by the proposed sewer line easement and pump station. The latest preliminary plan shows the forebay half in the buffer, and has enlarged Sand Filter #5, even though the pump station has been relocated to the Stringtown Road entrance. Given that the buffer will no longer be divided with unforested infrastructure, this sand filter's encroachment into the buffer cannot be environmentally justified. Staff has written Condition #1 to settle the issue, and to support the Board's desire to make the water quality features as attractive as possible.

EPD and DEP staffs have agreed that an MCDOT waiver of the open-section roadway requirement in Use Class IV watersheds is appropriate in this case. Given the intense urban use of the Town Center, closed-section roads will better serve the design

objectives. The higher road runoff will be balanced by increased storage for stormwater management (SWM) in the water quality features (controlling 1" of runoff over the impervious areas instead of the usual 1/2"). Both staffs also are emphatic that there must be more repetition in the SWM system to build back-ups into the water quality treatment system in order to justify this road waiver and to meet SPA objectives.

SPA GUIDELINES IN THE CLARKSBURG TOWN CENTER PLAN

The proposed M-NCPPC SPA guidelines focus on three elements of Planning Department review to improve environmental conditions in sensitive watersheds. They are:

- **BUFFERS** - expanded environmental buffers that afford the same protection to all hydrologic features - springs, seeps, and wetlands - as is already given to the stream channels themselves. SPA buffers use the same widths as are in the current EPD guidelines, but the buffers are measured from the wetland boundaries instead of from the stream bank;
- **FORESTATION** - direction for more effective forestation, including longer maintenance periods to protect newly planted forest from invasive vegetation and earlier planting to more quickly create the desired forest canopy in stream valleys; and
- **IMPERVIOUSNESS** - reduced imperviousness wherever possible, such as narrower roadway widths, shorter driveways, and parking reduced to the minimum required spaces.

All of these approaches are appropriate in the Clarksburg SPA because they address the objectives jointly established by the applicant, DEP and the Planning Department for this site during the Water Quality Review process. The proposed M-NCPPC SPA guidelines will contribute to meeting the following Clarksburg Town Center Water Quality Performance Objectives, which are part of the Preliminary Water Quality Plan:

1. Protect the stream/aquatic life habitat: restore habitat which promotes natural recovery toward a Use IV stream habitat. (BUFFERS AND FORESTATION ELEMENTS)
2. Protect seeps, springs, and wetlands: protect natural recharge areas. (BUFFERS ELEMENT)
3. Maintain natural on-site stream channels: through effective upland site planning, protect stream habitat features vulnerable to anticipated development impacts. (BUFFERS AND FORESTATION ELEMENTS)

4. Minimize storm flow runoff increases. (IMPERVIOUSNESS AND FORESTATION ELEMENTS)

5. Minimize increases to ambient water temperature. (IMPERVIOUSNESS AND FORESTATION ELEMENTS)

6. Minimize sediment loading and nutrient loadings. (IMPERVIOUSNESS AND BUFFER ELEMENTS)

SEQUENCE OF ENVIRONMENTAL REVIEW

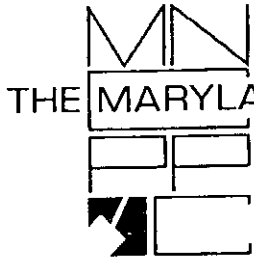
EPD staff has encouraged the applicant to show the wider SPA buffers on the preliminary plan to better gauge its effect on layout. At site plan, the applicant should provide a plan which clearly shows impervious surfaces and grading in relation to the SPA buffer. Condition #2 is written to enforce the M-NCPPC SPA buffer as it is proposed today. Any Planning Board modifications to the proposed SPA buffer guidelines will apply to the site plan.

There are a few locations where the new buffer line conflicts with the current development proposal's buildings or streets. Staff recommends, at a minimum, that all impervious surfaces be relocated outside of this SPA buffer, and that the applicant also relocate grading, lot lines and stormwater management facilities outside the buffer wherever possible.

Since the M-NCPPC SPA guidelines, which together with DEP regulations specify the requirements for a Water Quality Plan, have not been reviewed or approved by the Planning Board yet, the Clarksburg Town Center review will continue to be subject to changes until the site plan stage. The applicant, in the project plan meeting transcript, agreed that the plan would be subject to the guidelines when adopted. DEP staff, Planning staff and the Board itself have emphasized to the applicant that there is still a potential for site layout and other modifications based on the upcoming requirements. Also, in the preliminary SWM concept approval, DEP states that changes may occur based on review of the environmental assessments to be submitted with the final water quality plan prior to site plan. Condition #4 settles this issue. Condition #3 is intended to clarify the rules for all parties before the efforts of designing and reviewing the site plan are made.

A number of environmental considerations will not be reviewed until site plan. At that point, staff expects to see details for reducing imperviousness, upgrading the landscaping and appearance of stormwater management facilities, creating attractive native-species forest in the environmental buffers, and pursuing off-site forestation opportunities in the Little Seneca Creek watershed. Trade-offs for grading in the SPA

buffer, especially in existing forested areas, will be considered. Finally, the site plan will reflect specifics of any applicable SPA recommendations from both DEP and the Planning Department, as well as the final stormwater management concept, after the complete water quality review data has been submitted.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks, Montgomery County, Maryland
9500 Brunett Avenue • Silver Spring, Maryland 20901

September 22, 1995

MEMORANDUM

TO: Joe Davis, Development Review

VIA: Terry H. Brooks, Chief, Park Planning and Development *THB*

FROM: Tanya K. Schmieler, Park Planning and Development *TKS*
Eugene Elliott, Park Planning and Development *E.E.*

SUBJECT: Preliminary Plan 1-95042 - Clarksburg Town Center

The purpose of this memorandum is to present comments on the park/school site proposal for Preliminary Plan 1-95042- Clarksburg Town Center.

RECOMMENDATION

The Department of Parks recommends that if a park school is located at this site, the following should be required.

1. The park-school site should include sufficient land area to accommodate the current recreation facilities at the existing Kings Local Park, plus standard facilities associated with a new elementary school, sufficient parking, and adequate buffer separation between facilities and roadways and the power line, to allow for safety and grading. The attached sketch plans achieve these objectives.
2. The developer should dedicate the area adjacent to the power lines to M-NCPPC Department of Parks (Area "A"). As the park site was purchased with Program Open Space Funding, approval of the Maryland Board of Public Works is necessary to accommodate a land exchange. This approval is generally granted if the exchange site is of equal or greater acreage and recreational benefit. Following site plan approval, M-NCPPC would apply to the Board of Public Works for permission to exchange the new dedication for the small area needed by the developer for the proposed road adjacent to the site (Area "B 1"), and the area needed by BOE for the

Yours for life

MONTGOMERY COUNTY PARKS

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school building, parking and bus drop off basketball court and playground (Area "B 2"). The ballfield area would be retained by M-NCPPC, but could be utilized by the school during the school day.

M-NCPPC would grant an easement for the land needed by the developer for the proposed road (Area "B 1") and the land would be deeded to the developer following his grading and seeding to park specifications of the proposed athletic fields and parking area within (Area "A"). The new road will reduce the size of the existing softball field and the field may need to be closed during road construction. (Department of Parks would provide goals, backstops and gravel for parking lot).

Land needed for the proposed school would be deeded to the Board of Education when they have approved monies in the Capital Improvements Program for school construction. There is precedent for this at a few other park-school sites (Clear Spring, Germantown Estates and Blueberry Hills) where entire park-school site has been held by M-NCPPC until school construction.

3. The site will serve as a park until school construction occurs. If the Board of Education ultimately determines that a school is not needed at this location, the entire site will be retained as a public park.
4. The 5 acre portion of the park that contains the pond, picnic/playground and small parking lot should remain intact and available for use by the general public.

BACKGROUND INFORMATION

Over the last several months staff from the Department of Parks, Department of Planning, and Montgomery County Schools have been working towards the delineation of a park school site that meets the objectives outlined above. The Department of Parks is not opposed to the park/school concept, but sites previously recommended by the developer did not meet these objectives.

The existing Kings Local Park site currently serves the Clarksburg Community and will also be utilized by the future residents of Clarksburg Town Center. If a school is needed to serve the approximately 1300 units proposed on the Plan, it should be constructed with the standard acreage and facilities provided at other elementary schools.

PARK AND SCHOOL REQUIREMENTS

A summary of the space requirements for a park/school site at this location are as follows:

Park Requirements-

Retention of current park facilities at Kings Local Park including:

Kings pond, picnic area, playground and parking- 5 acres

Softball field - 315' outfield

Soccer field- 220 x 360'

Parking- 30 spaces existing (additional planned spaces)

Elementary School Requirements-

Montgomery County Public Schools (MCPS) has indicated that all school facilities must be at least 600 feet from the electric power line. Elementary school program requirements as conveyed by MCPS are as follows.

School building to accommodate 640 students- 87,000 square feet

2 Multi- use court areas (each 80'x 100'ft)

Playground (75'x 75')

Small fenced kindergarden playground 40'x 60'

Pre-school playground 40'x 60'

Bus turnaround and car drop off areas

Service access and service drive

70 parking spaces

2 softball fields- (250'outfields)

1 football/soccer overlay

Other Requirements-

Buffering - Adequate space is needed for grading and safe distances between facilities. It is recommended that 50 feet be provided between all facilities as well as the road, and that a 100 ft buffer be retained from the power line.

Parking - This facility will result in a total of three community use fields and a practice field. Our parking standard is 50 on-site parking spaces per field. If the elementary school has 70 parking spaces, the park should provide 75-80 spaces to fully provide for the need. On-street parking area should not be used to calculate this parking requirement but can provide for overflow parking needs.

Topography - The parks Department requires gentle slopes which do not exceed a ratio of 4:1 in order to accomodate our grass mowers for maintenance purposes. At least one of the athletic fields must meet ADA guidelines.

Storm Water Management - It is our understanding that storm water management for the school site will be provided by a new pond in the greenway to the south of the school site. This pond should not be maintained by M-NCPPC.

Relationship of Current Plan to Site Requirements Listed Above-

The concept development plan would achieve recreation facility requirements. When the school is constructed, an area for additional on site parking will need to be determined, and could possibly be provided adjacent to the power line. Buffering requirements are not fully met, but it is anticipated that with some safety fencing and buffer planting, problems will be minimal.

SITE PROPOSALS

While specific site layouts can be determined by the Commission at the regulatory site plan review stage, it is necessary to establish the configuration of the park/school site and adjacent roadways now. The workability of this concept depends on the placement of the school related facilities within area C. It is our understanding that architects from the Board of Education have concurred that a school can be accommodated within this area.

Development of the Site Is Being Suggested In Two Phases:

Phase 1 - Recreational Use of the Site

Phase I retains the current park facilities in their present configuration and does not require regrading of the park site until school construction occurs. (see attached sketch). It would provide the minimum amount of disruption to the existing park users. It recommends having the developer locate two full size park facilities adjacent to the power line to replace the existing large fields that will be reduced in size when the road and the school are constructed. On an interim basis, four fields will be available for public use until the school is constructed. These fields will be used by northern area childrens and adults teams. The two new fields will continue to be usable during school construction.

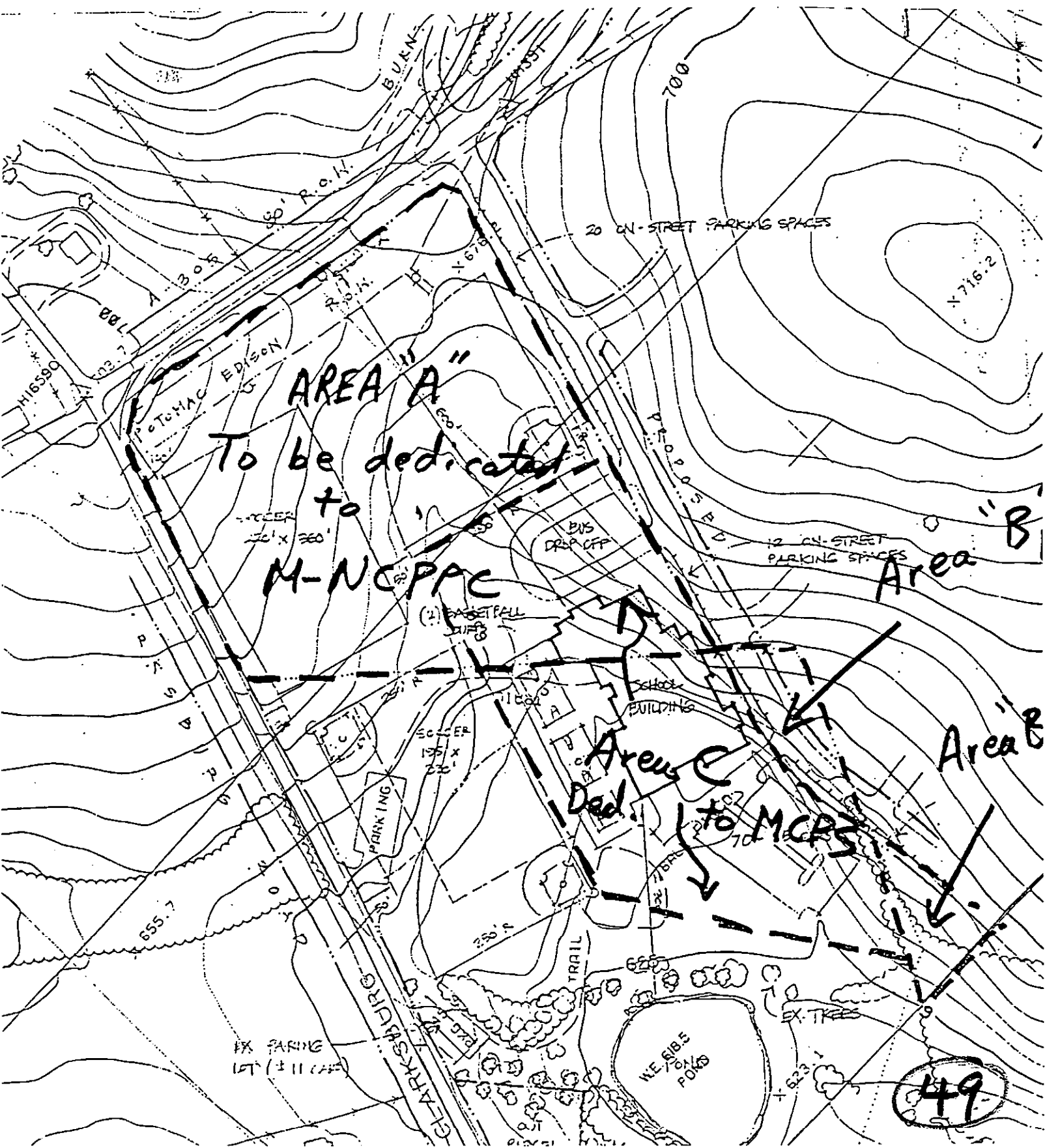
Phase II - Park-School Use of the Site

Phase II would occur when the Board of Education is ready to place a school on the site. It would retain the new fields adjacent to the power line, but requires regrading of the majority of the current park site to accommodate the new school and to realign the ballfield areas. It realigns the fields on the park property and downsizes them for school use. Existing park fields would be taken out of play during reconstruction and turf establishment (18-24 months).

CONCLUDING COMMENT

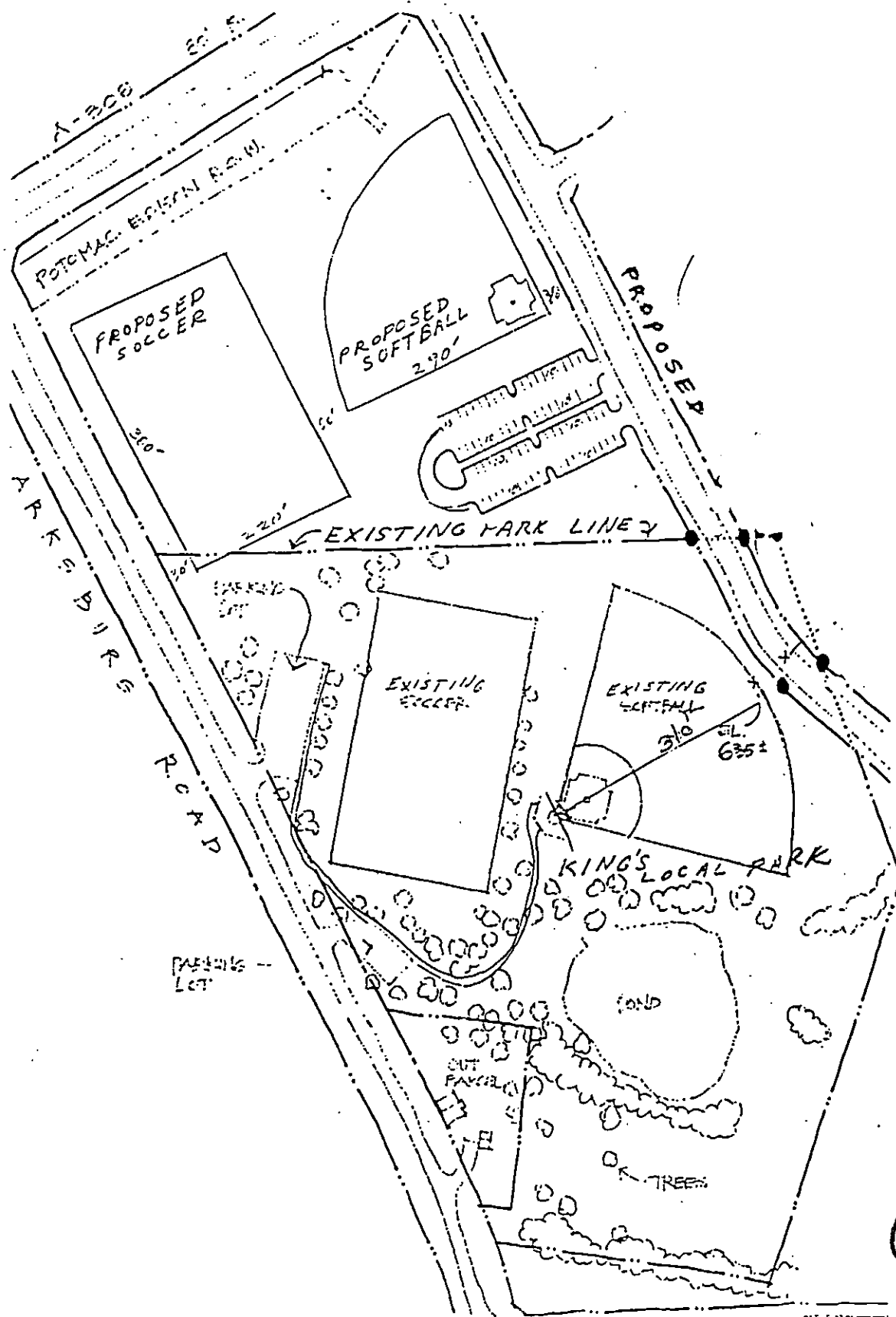
The Department of Parks is supportive of the park/school concept for Clarksburg Town Center. Although the implementation of this proposal severely impacts the existing Kings Local Park site, cooperative efforts to place both facilities in this location adjacent to the greenbelt is very beneficial to the public and fits with the overall innovative Town Center Development Concept. If a school is not ultimately needed at this location, the entire site should be retained as a public park.

CLARKSBURG TOWN CENTER



CLARKSBURG TOWN CENTER

PHASE I

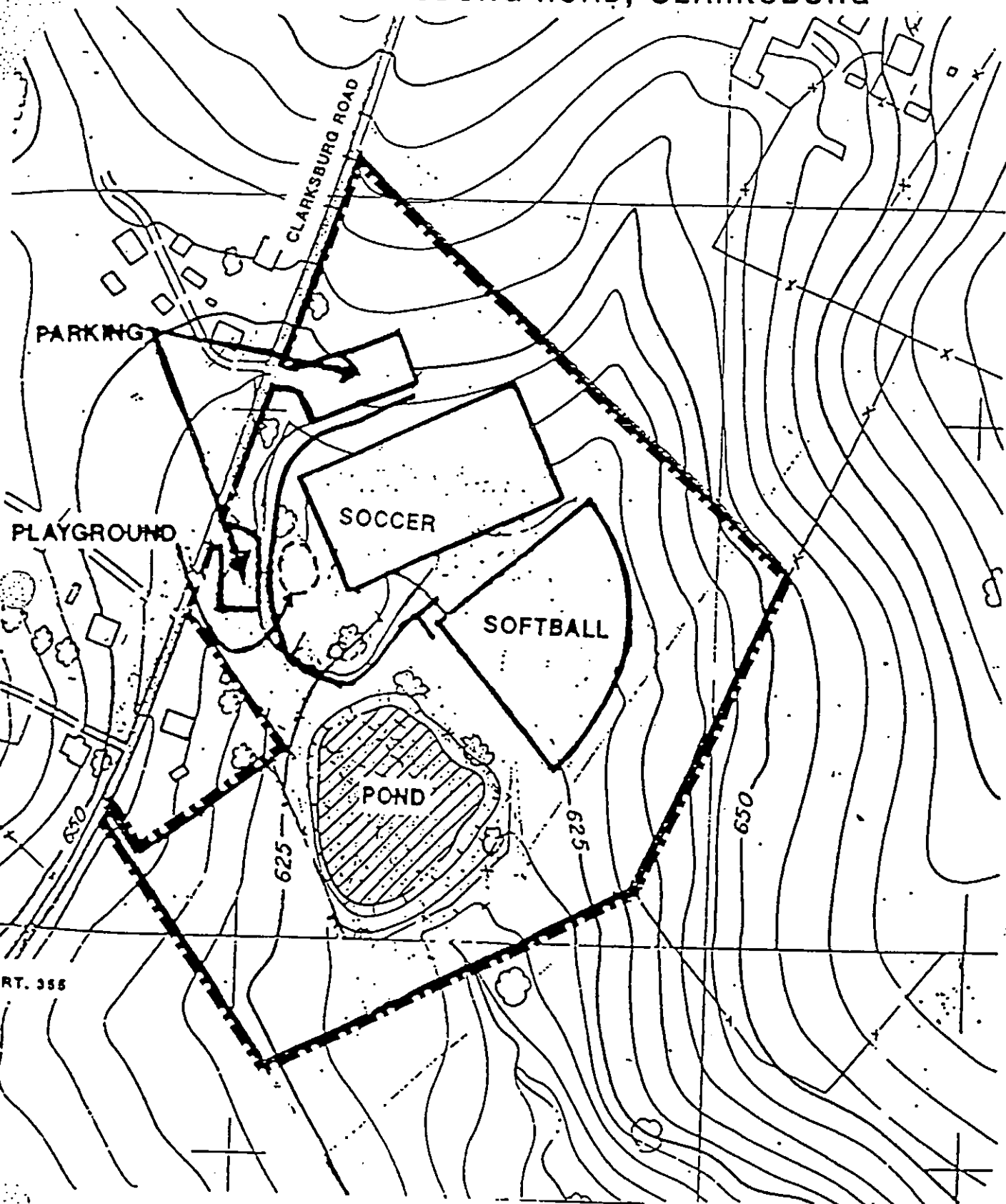


PHASE II



KINGS L.P.

23715 CLARKSBURG ROAD, CLARKSBURG



NCPPC STAFF GUIDE 5-1E

SCALE 1" = 200'

ACREAGE 13.8
FACILITY CODE D61

REGION I, AREA A



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September 21, 1995

BY HAND DELIVERY

The Honorable William Hussmann
Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Private Sector Transportation Funding Mechanism
for the Clarksburg East Side and Preliminary Plan
No. 1-95042 (Clarksburg Town Center)

Dear Chairman Hussmann:

This letter is submitted on behalf of Winchester Homes, Inc., Ryland Homes and The Associated Companies (collectively organized as the "Kingstead Manor Joint Venture"), the DiMaio Joint Venture and Clarksburg Village Partnership. These five property owners own undeveloped land in Stage 3 of the east side of Clarksburg with the potential to develop approximately 3100 dwelling units and associated local retail uses.

These property owners support the need for construction of a total transportation network to serve the east side of Clarksburg and its Town Center at the earliest possible date. They wish to avoid the piecemeal construction of roads and the lack of funding for such facilities. While they recognize that the Town Center is expected to proceed first, they also are aware of the County's desire to develop a complete community in Clarksburg that will function interactively. Therefore, they accept the Master Plan's imposition of a private contribution requirement to help fund the designated package of roads and want to see such a mechanism established.

The five, east-side property owners want to ensure that proper steps are taken to expeditiously establish an equitable funding mechanism for the private share of roadway costs. This requires

The Honorable William Hussmann

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equal application to all properties on the east side based upon a pro rata share of overall development and trip generation. This, in turn, requires that the Town Center Preliminary Plan contain conditions which impose these obligations in accordance with the Master Plan.

These five property owners have carefully analyzed the issue of private funding to supplement public expenditures for roads on the east side. Based upon their work during consideration of the Master Plan and subsequent to its adoption, they believe that an impact tax or similar funding mechanism would be the most appropriate funding device. They further believe that such a mechanism can be implemented and applied to all east side properties without causing delay to the Town Center project. This letter further describes the proposed funding mechanism, its consistency with the Master Plan and the ways in which it can be applied to the Town Center project without imposing delay.

I. TRANSPORTATION INFRASTRUCTURE FINANCING

A. Master Plan Requirements

The Master Plan contains two infrastructure funding conditions, both of which must be satisfied before development can proceed. First, a stage must be "triggered" or, in other words, open for consideration of development applications. Among other triggers, Stages 2 (the Town Center) and 3 (the majority of the east side) require: (a) State and County enabling legislation for development districts or (b) alternative infrastructure financing mechanisms." Beyond that "trigger", however, as specified at pages 195 and 197 of the Master Plan, individual development within such stage can proceed only after compliance with the designated funding mechanism. More specifically, it requires implementation of an alternative financing mechanism, not just the legislative authorization to establish one.

B. Proposed Funding Mechanism and Implementation

In order to meet the Master Plan requirements for development of the Town Center and the remainder of the east side of Clarksburg, these five property owners have been working collectively to create an alternative financing mechanism. Based upon discussions with Staff of the Montgomery County Department of

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Transportation, Office of Planning Implementation, Park and Planning Commission and their own consultants, they have concluded that an impact tax or similar funding mechanism would be the simplest and most direct method for raising the necessary private funds. They have been working with the County to seek establishment of this "implementing mechanism" at the earliest possible date.

Currently, they envision that such a tax would be applied in a manner comparable to existing impact taxes in the County. Accordingly, payment of the tax would be applied at the time of issuance of building permits thereby allowing projects to proceed through the administrative land use approval process in an expeditious and orderly fashion. The tax would be calculated on a pro-rata basis in relation to the project's overall share of development and traffic generation. As with existing impact taxes, credits would be given where a project engages in actual roadway construction.

C. Orderly Development of the Community and Its Road Network

Prompt creation of a funding mechanism for the entire private sector share of roadway and improvements would add a level of predictability and fairness to the development process that will promote orderly development of the east side. By allocating responsibility on a pro-rata, fair share basis, all owners, including the Town Center, will make comparable contributions to the overall roadway network. This will avoid the potential pitfalls of assessing the cost of immediate needs and impacts only and the inherent inequities of a first-come, first-serve basis of approvals. It will also avoid the need for extensive analyses of the traffic impact of a project on any particular road and will eliminate the controversy involved in determining whether proffers made by an individual project for road construction are too high, too low or close to the fair share.

To the extent that a particular project is required to construct impact tax roads as a condition of its development approval or to the extent that the developer desires to do so, credits would be provided in a manner comparable to current impact tax credits. This would enable construction of the most necessary roadways to occur early in the development process, but would avoid a situation where that construction became the only obligation of

The Honorable William Hussmann

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the developer, thereby leaving other property owners who develop later in time with additional burdens. Among the lessons we have learned elsewhere in the County is the need for a mechanism to ensure that all necessary roads are built in a timely manner, that a community develop in a complete manner and that funding obligations are applied equitably.

D. Application of Condition at Time of Preliminary Plan Approval

Subdivision regulations require consideration of Master Plan provisions at the time of approval of a preliminary plan. Specifically, § 50-35(1), states that:

In determining the acceptability of the preliminary plan submitted under the provisions of this chapter, the Planning Board must consider the applicable master plan. A preliminary plan must substantially conform to the applicable master plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant master plan recommendation no longer appropriate.

Thus, absent a Planning Board finding that the two-fold Clarksburg Master Plan requirements for private sector infrastructure funding are "no longer appropriate," these mandates must be substantially met before any preliminary plan of subdivision can be approved.

The legal viability of the connection between the Master Plan and subdivision processes has been upheld by the Court of Appeals of Maryland in Coffey v. M-NCPPC, 293 Md. 24, 441 A.2d 1041 (1982) and in Board of County Commissioners of Cecil County v. Gaster, 285 Md. 223, 401 A.2d 666 (1979). Moreover, in Coffey the Court noted that, where the County's subdivision regulations required compliance with a Master Plan, the Master Plan was entitled to the same obedience as any other legislative enactment, and was not merely a guide or set of recommendations.

Therefore, with respect to Clarksburg, any preliminary plan considered by the Planning Board can and should require a condition that the alternative funding mechanism be "implemented" prior to the issuance of building permits for that project.

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II. TOWN CENTER PRELIMINARY PLAN NO. 1-95042

This approach can be applied to the pending Preliminary Plan for the Clarksburg Town Center. It would not delay approval in any way nor would it delay development of the Town Center. Rather, it would ensure the most expeditious establishment of the alternative funding mechanism and would protect against opposition to the funding mechanism from any property that might obtain development approvals before the funding mechanism is implemented. It is not the intention of this letter to delay or circumvent approval of the Town Center Preliminary Plan. It is, however, intended to recognize that the road network obligations of the Town Center, as well as subsequent Stage 3 projects, are contained in the APFO as well as the Master Plan and that the two are not mutually exclusive.

At present, it is not clear what the Town Center's pro-rata, fair share obligation should be. The applicant has taken one position while other studies contain alternative numbers. For example, the Fiscal Impact Analysis for the Clarksburg Master Plan prepared by the Office of Planning Implementation in August, 1993, contains an extensive analysis of the infrastructure cost and its potential allocation. More recently, OPI prepared an analysis with respect to the Town Center itself dated August 2, 1995. Given the desire to approve the Town Center project as expeditiously as possible, it has not been possible to resolve the differences of opinion as to what the infrastructure funding obligation should be. In fact, until the total infrastructure obligation for the private sector in connection with the east side has been determined, it is impossible to calculate what the Town Center's fair share should be. The infrastructure funding mechanism discussed above, with credits for actual roadway construction by a particular project, such as the Town Center's proposed construction of A-305 and a two lane widening of Stringtown Road, would completely accommodate the Town Center. It would not, however, leave an unfair share of the infrastructure funding to other property owners.

Various factions of the County government are currently working on alternative funding mechanisms that could apply in Clarksburg. As previously suggested, creation of an impact tax or similar financing mechanism and subsequent implementation of the chosen methodology can and should be accomplished without delaying the Town Center project. It would be inequitable, however, to permit the Town Center to go forward without compliance with the

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The Honorable William Hussmann

September 21, 1995

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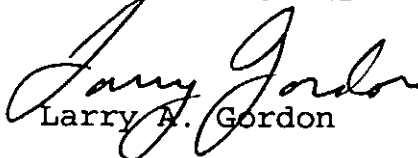
same obligation that is likely to apply to other property owners thereby imposing even greater obligations on those subsequent projects. This was not the intent of the Master Plan. Indeed, to the contrary, the Master Plan requires that both enabling authority and implementation of the funding mechanism be in place before development occurs in order to avoid excessive charges against later-in-time projects, omission of funding for major road network links, and the creation of scattered and unconnected neighborhoods within the east side community. These are all laudable objectives that can be advanced by the creation and equitable application of an impact tax to all affected east side properties, including the Town Center. To do otherwise would risk repeating the private sector road financing mistakes made in prior town center-driven planning areas. The property owners represented in this letter strongly suggest that we comply with the clear staging requirements of the Master Plan and treat all property owners in a similar and equitable manner.

Finally, we request that this letter be included in the Planning Board's packet for Town Center Preliminary Plan No. 1-95042 and incorporated into the public record of that matter.

Respectfully submitted,



Robert R. Harris



Larry A. Gordon

COUNSEL FOR KINGSTEAD JOINT VENTURE

RRH/LAG:ae

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CHARTERED

The Honorable William Hussmann

September 21, 1995

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cc: Planning Board Members - By Hand
Ms. Elizabeth Davison - Reg. Mail
Mr. Glenn S. Orlin - " "
Mr. John J. Clark - " "
✓ Mr. Joseph Davis - By Hand
Thomas Kennedy, Esq. - " "
Mr. Keith Kubista - Reg. Mail
Mr. Arthur Rosenberg - " "
Mr. Steven Baldwin - " "
Mr. David Flanagan - " "
Mr. John Carman - " "
Mr. Philip Perrine - " "
Mr. Craig Hedberg - " "
Mr. Richard DiMaio - " "
Mr. Jerome E. Korpeck - " "
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September 21, 1995

BY HAND DELIVERY

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September 21, 1995
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The Master Plan contains two infrastructure funding conditions, both of which must be satisfied before development can proceed. First, a stage must be "triggered" or, in other words, open for consideration of development applications. Among other triggers, Stages 2 (the Town Center) and 3 (the majority of the east side) require: (a) State and County enabling legislation for development districts or (b) alternative infrastructure financing mechanisms." Beyond that "trigger", however, as specified at pages 195 and 197 of the Master Plan, individual development within such stage can proceed only after compliance with the designated funding mechanism. More specifically, it requires implementation of an alternative financing mechanism, not just the legislative authorization to establish one.

B. Proposed Funding Mechanism and Implementation

In order to meet the Master Plan requirements for development of the Town Center and the remainder of the east side of Clarksburg, these five property owners have been working collectively to create an alternative financing mechanism. Based upon discussions with Staff of the Montgomery County Department of

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Transportation, Office of Planning Implementation, Park and Planning Commission and their own consultants, they have concluded that an impact tax or similar funding mechanism would be the simplest and most direct method for raising the necessary private funds. They have been working with the County to seek establishment of this "implementing mechanism" at the earliest possible date.

Currently, they envision that such a tax would be applied in a manner comparable to existing impact taxes in the County. Accordingly, payment of the tax would be applied at the time of issuance of building permits thereby allowing projects to proceed through the administrative land use approval process in an expeditious and orderly fashion. The tax would be calculated on a pro-rata basis in relation to the project's overall share of development and traffic generation. As with existing impact taxes, credits would be given where a project engages in actual roadway construction.

C. Orderly Development of the Community and Its Road Network

Prompt creation of a funding mechanism for the entire private sector share of roadway and improvements would add a level of predictability and fairness to the development process that will promote orderly development of the east side. By allocating responsibility on a pro-rata, fair share basis, all owners, including the Town Center, will make comparable contributions to the overall roadway network. This will avoid the potential pitfalls of assessing the cost of immediate needs and impacts only and the inherent inequities of a first-come, first-serve basis of approvals. It will also avoid the need for extensive analyses of the traffic impact of a project on any particular road and will eliminate the controversy involved in determining whether proffers made by an individual project for road construction are too high, too low or close to the fair share.

To the extent that a particular project is required to construct impact tax roads as a condition of its development approval or to the extent that the developer desires to do so, credits would be provided in a manner comparable to current impact tax credits. This would enable construction of the most necessary roadways to occur early in the development process, but would avoid a situation where that construction became the only obligation of

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the developer, thereby leaving other property owners who develop later in time with additional burdens. Among the lessons we have learned elsewhere in the County is the need for a mechanism to ensure that all necessary roads are built in a timely manner, that a community develop in a complete manner and that funding obligations are applied equitably.

D. Application of Condition at Time of Preliminary Plan Approval

Subdivision regulations require consideration of Master Plan provisions at the time of approval of a preliminary plan. Specifically, § 50-35(1), states that:

In determining the acceptability of the preliminary plan submitted under the provisions of this chapter, the Planning Board must consider the applicable master plan. A preliminary plan must substantially conform to the applicable master plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant master plan recommendation no longer appropriate.

Thus, absent a Planning Board finding that the two-fold Clarksburg Master Plan requirements for private sector infrastructure funding are "no longer appropriate," these mandates must be substantially met before any preliminary plan of subdivision can be approved.

The legal viability of the connection between the Master Plan and subdivision processes has been upheld by the Court of Appeals of Maryland in Coffey v. M-NCPPC, 293 Md. 24, 441 A.2d 1041 (1982) and in Board of County Commissioners of Cecil County v. Gaster, 285 Md. 223, 401 A.2d 666 (1979). Moreover, in Coffey the Court noted that, where the County's subdivision regulations required compliance with a Master Plan, the Master Plan was entitled to the same obedience as any other legislative enactment, and was not merely a guide or set of recommendations.

Therefore, with respect to Clarksburg, any preliminary plan considered by the Planning Board can and should require a condition that the alternative funding mechanism be "implemented" prior to the issuance of building permits for that project.

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II. TOWN CENTER PRELIMINARY PLAN NO. 1-95042

This approach can be applied to the pending Preliminary Plan for the Clarksburg Town Center. It would not delay approval in any way nor would it delay development of the Town Center. Rather, it would ensure the most expeditious establishment of the alternative funding mechanism and would protect against opposition to the funding mechanism from any property that might obtain development approvals before the funding mechanism is implemented. It is not the intention of this letter to delay or circumvent approval of the Town Center Preliminary Plan. It is, however, intended to recognize that the road network obligations of the Town Center, as well as subsequent Stage 3 projects, are contained in the APFO as well as the Master Plan and that the two are not mutually exclusive.

At present, it is not clear what the Town Center's pro-rata, fair share obligation should be. The applicant has taken one position while other studies contain alternative numbers. For example, the Fiscal Impact Analysis for the Clarksburg Master Plan prepared by the Office of Planning Implementation in August, 1993, contains an extensive analysis of the infrastructure cost and its potential allocation. More recently, OPI prepared an analysis with respect to the Town Center itself dated August 2, 1995. Given the desire to approve the Town Center project as expeditiously as possible, it has not been possible to resolve the differences of opinion as to what the infrastructure funding obligation should be. In fact, until the total infrastructure obligation for the private sector in connection with the east side has been determined, it is impossible to calculate what the Town Center's fair share should be. The infrastructure funding mechanism discussed above, with credits for actual roadway construction by a particular project, such as the Town Center's proposed construction of A-305 and a two lane widening of Stringtown Road, would completely accommodate the Town Center. It would not, however, leave an unfair share of the infrastructure funding to other property owners.

Various factions of the County government are currently working on alternative funding mechanisms that could apply in Clarksburg. As previously suggested, creation of an impact tax or similar financing mechanism and subsequent implementation of the chosen methodology can and should be accomplished without delaying the Town Center project. It would be inequitable, however, to permit the Town Center to go forward without compliance with the

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same obligation that is likely to apply to other property owners thereby imposing even greater obligations on those subsequent projects. This was not the intent of the Master Plan. Indeed, to the contrary, the Master Plan requires that both enabling authority and implementation of the funding mechanism be in place before development occurs in order to avoid excessive charges against later-in-time projects, omission of funding for major road network links, and the creation of scattered and unconnected neighborhoods within the east side community. These are all laudable objectives that can be advanced by the creation and equitable application of an impact tax to all affected east side properties, including the Town Center. To do otherwise would risk repeating the private sector road financing mistakes made in prior town center-driven planning areas. The property owners represented in this letter strongly suggest that we comply with the clear staging requirements of the Master Plan and treat all property owners in a similar and equitable manner.

Finally, we request that this letter be included in the Planning Board's packet for Town Center Preliminary Plan No. 1-95042 and incorporated into the public record of that matter.

Respectfully submitted,



Robert R. Harris



Larry A. Gordon

COUNSEL FOR KINGSTEAD JOINT VENTURE

RRH/LAG:ae

WILKES, ARTIS, HEDRICK & LANE

CHARTERED

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cc: Planning Board Members - By Hand
Ms. Elizabeth Davison - Reg. Mail
Mr. Glenn S. Orlin - " "
Mr. John J. Clark - " "
✓ Mr. Joseph Davis - By Hand
Thomas Kennedy, Esq. - " "
Mr. Keith Kubista - Reg. Mail
Mr. Arthur Rosenberg - " "
Mr. Steven Baldwin - " "
Mr. David Flanagan - " "
Mr. John Carman - " "
Mr. Philip Perrine - " "
Mr. Craig Hedberg - " "
Mr. Richard DiMaio - " "
Mr. Jerome E. Korpeck - " "
Steve N. Kaufman, Esq. - " "

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Note:

The site layout as shown on this plan is for reference purposes only and is subject to change. The final layout for the site or portions of the site will be determined during the Site Plan process.

Legend

-  Important Vistas
 Significant Buildings

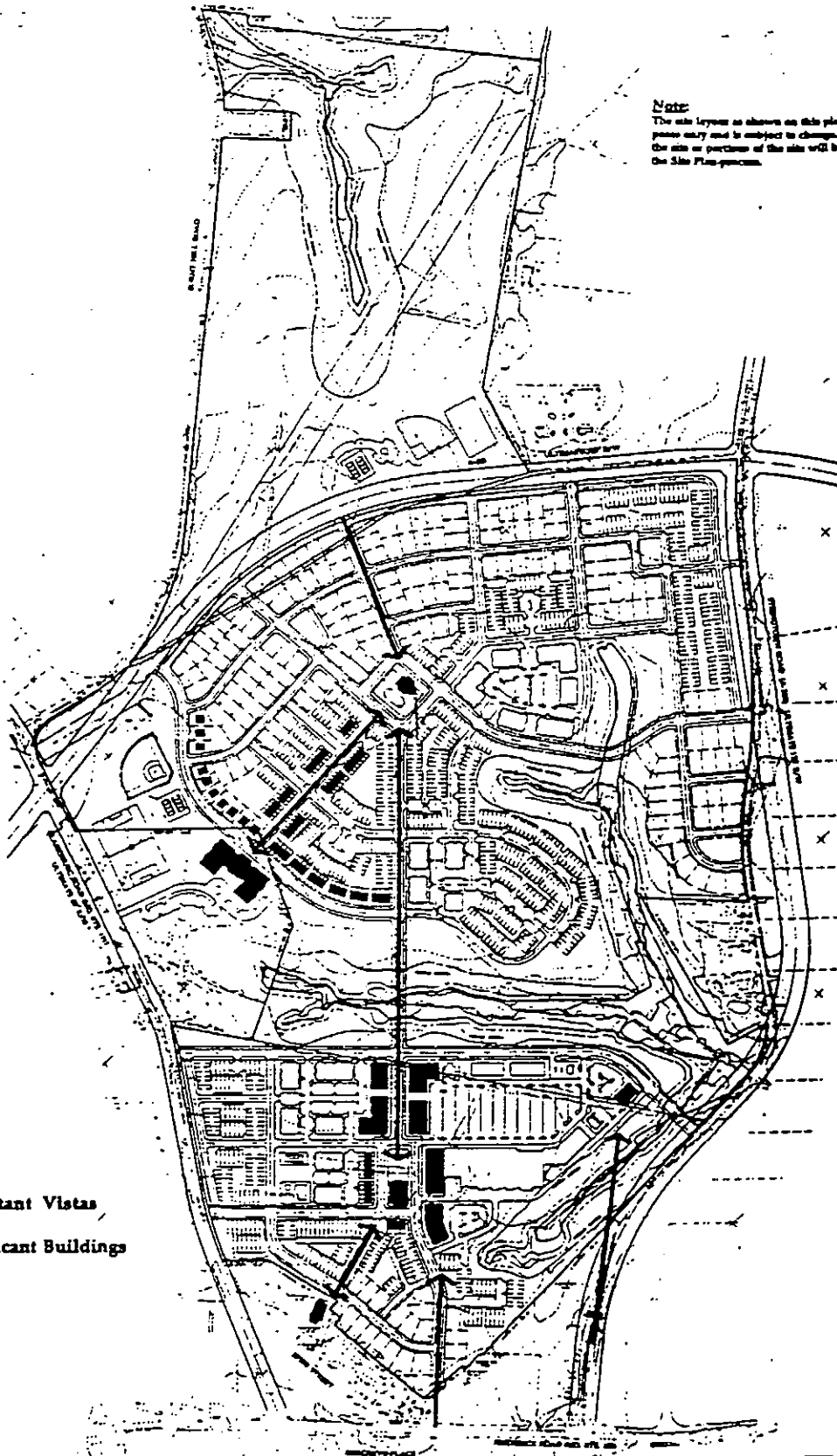


Exhibit 17

Illustrative Building Plan

Item # 20

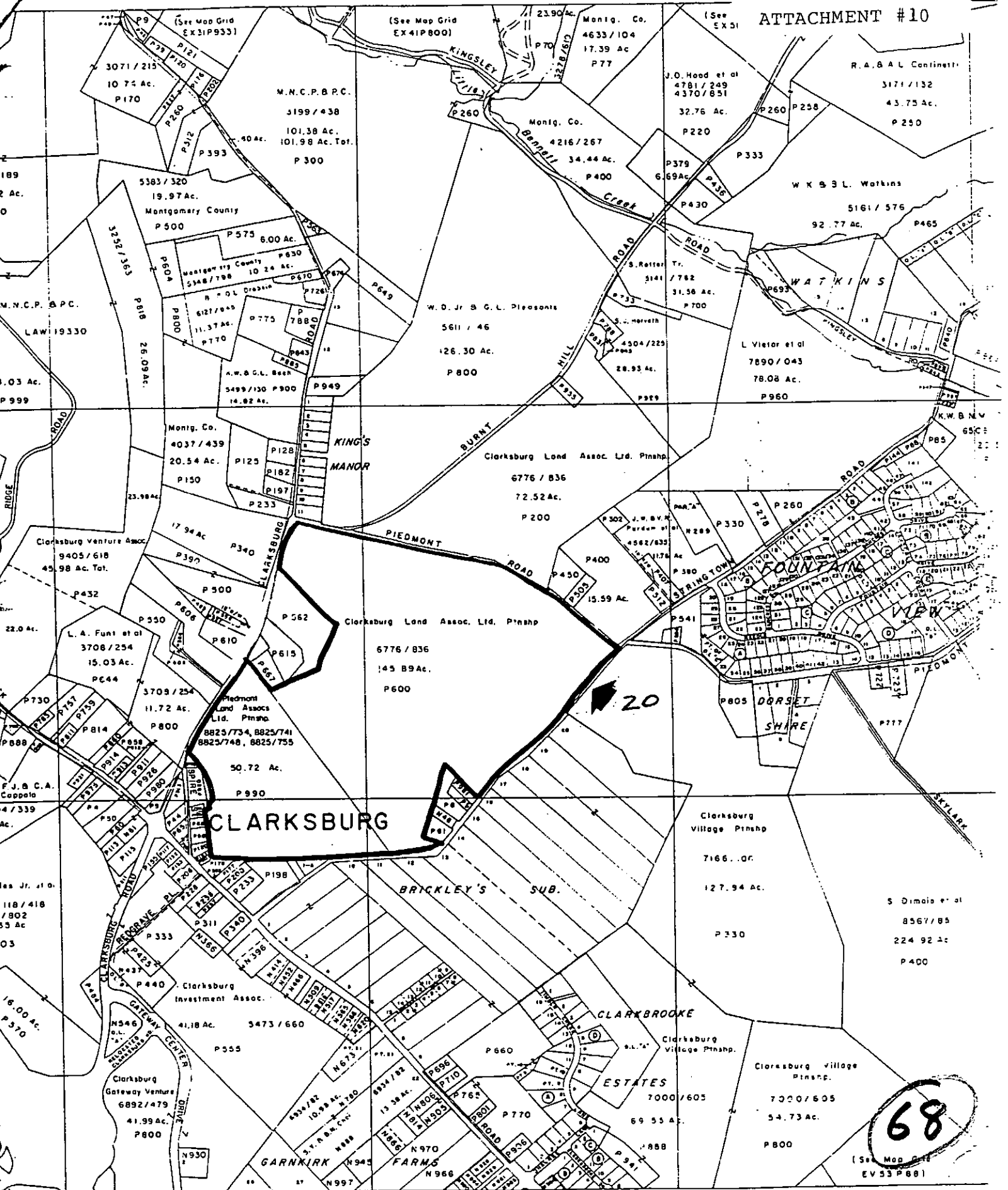
CLARKSBURG TOWN CENTER
MONTGOMERY COUNTY, MARYLAND

E 3

EX

E 4

ATTACHMENT #10



LEGEND

THESE MAPS ARE PROTECTED BY COPYRIGHT. THEY MAY NOT BE COPIED OR REPRODUCED IN ANY FORM INCLUDING

DIST. CURRENT TO

SCALE: 1/2" = 600'